

MODIFICATION REPORT for Modification Proposal P207

'Introduction of a New Governance Regime to Allow a Risk Based Performance Assurance Framework (PAF) to be Utilised and Reinforce the Effectiveness of the Current PAF'

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This document has been distributed in accordance with Section F2.1.10 of the Balancing and Settlement Code.²

Proposed Modification P207 seeks to introduce new governance arrangements to allow a risk based Performance Assurance Framework (PAF) to be utilised for the Supplier Volume Allocation (SVA) aspects of the Balancing and Settlement Code (the Code). P207 looks to introduce SVA Assurance objectives into the Code to define the purpose of the assurance arrangements. P207 proposes that, under the new arrangements, the role of the PAB would be expanded to allow it to identify, evaluate and prioritise the risks in the market and then choose how to deploy assurance techniques against those risks, and to manage the application of those techniques. Assurance of the Central Volume Allocation (CVA) arrangements would continue to be carried out in the same way as it is currently.

No Alternative Modification has been developed.

BSC PANEL'S RECOMMENDATIONS

Having considered and taken into due account the contents of the P207 draft Modification Report, the BSC Panel recommends:

- **that Proposed Modification P207 should be made;**
- **an Implementation Date for Proposed Modification P207 of 23 August 2007 if an Authority decision is received on or before 22 June 2007, or the first Working Day which is 2 calendar months after an Authority decision if it is received after 22 June 2007; and**
- **the proposed text for modifying the Code, as set out in the Modification Report.**

¹ ELEXON Ltd fulfils the role of the Balancing and Settlement Code Company ('BSCCo').

² The current version of the Code can be found at <http://www.elexon.co.uk/bcsrelateddocs/BSC/default.aspx>

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SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

As far as the Modification Group has been able to assess, the following parties/documents would be impacted by P207.

Please note that this table represents a summary of the full impact assessment results contained in Appendix 4 of the Assessment Report.

Parties	Sections of the BSC	Code Subsidiary Documents
Distribution System Operators <input checked="" type="checkbox"/>	A <input type="checkbox"/>	BSC Procedures <input checked="" type="checkbox"/>
Generators <input type="checkbox"/>	B <input checked="" type="checkbox"/>	Codes of Practice <input type="checkbox"/>
Interconnectors <input type="checkbox"/>	C <input checked="" type="checkbox"/>	BSC Service Descriptions <input checked="" type="checkbox"/>
Licence Exemptable Generators <input type="checkbox"/>	D <input type="checkbox"/>	Party Service Lines <input type="checkbox"/>
Non-Physical Traders <input type="checkbox"/>	E <input type="checkbox"/>	Data Catalogues <input type="checkbox"/>
Suppliers <input checked="" type="checkbox"/>	F <input checked="" type="checkbox"/>	Communication Requirements Documents <input type="checkbox"/>
Transmission Company <input type="checkbox"/>	G <input type="checkbox"/>	Reporting Catalogue <input type="checkbox"/>
Party Agents³	H <input checked="" type="checkbox"/>	Core Industry Documents
Data Aggregators <input checked="" type="checkbox"/>	I <input type="checkbox"/>	Ancillary Services Agreement <input type="checkbox"/>
Data Collectors <input checked="" type="checkbox"/>	J <input type="checkbox"/>	British Grid Systems Agreement <input type="checkbox"/>
Meter Administrators <input checked="" type="checkbox"/>	K <input type="checkbox"/>	Data Transfer Services Agreement <input type="checkbox"/>
Meter Operator Agents <input checked="" type="checkbox"/>	L <input checked="" type="checkbox"/>	Distribution Codes <input type="checkbox"/>
ECVNA <input type="checkbox"/>	M <input type="checkbox"/>	Distribution Connection Agreements <input type="checkbox"/>
MVRNA <input type="checkbox"/>	N <input type="checkbox"/>	Distribution Use of System Agreements <input type="checkbox"/>
BSC Agents³	O <input type="checkbox"/>	Grid Code <input type="checkbox"/>
SAA <input type="checkbox"/>	P <input type="checkbox"/>	Master Registration Agreement <input type="checkbox"/>
FAA <input type="checkbox"/>	Q <input type="checkbox"/>	Supplemental Agreements <input type="checkbox"/>
BMRA <input type="checkbox"/>	R <input type="checkbox"/>	Use of Interconnector Agreement <input type="checkbox"/>
ECVAA <input type="checkbox"/>	S <input type="checkbox"/>	BSCCo
CDCA <input type="checkbox"/>	T <input type="checkbox"/>	Internal Working Procedures <input checked="" type="checkbox"/>
TAA <input checked="" type="checkbox"/>	U <input type="checkbox"/>	BSC Panel/Panel Committees
CRA <input type="checkbox"/>	V <input type="checkbox"/>	Working Practices <input checked="" type="checkbox"/>
SVAA <input type="checkbox"/>	W <input type="checkbox"/>	Other
Teleswitch Agent <input type="checkbox"/>	X <input checked="" type="checkbox"/>	Market Index Data Provider <input type="checkbox"/>
BSC Auditor <input checked="" type="checkbox"/>		Market Index Definition Statement <input type="checkbox"/>
Profile Administrator <input type="checkbox"/>		System Operator-Transmission Owner Code <input type="checkbox"/>
Certification Agent ⁴ <input type="checkbox"/>		Transmission Licence <input type="checkbox"/>
Other Agents³		
Supplier Meter Registration Agent <input checked="" type="checkbox"/>		
Unmetered Supplies Operator <input checked="" type="checkbox"/>		
Data Transfer Service Provider <input checked="" type="checkbox"/>		
Qualification Service Provider <input checked="" type="checkbox"/>		

P207 will also introduce a new section Z into the Code.

³ The Teleswitch Agent and Profile Administrator are not currently subject to performance assurance techniques, but could be in the future if the activities that they carry out are deemed to be an 'at risk' area of the PAF.

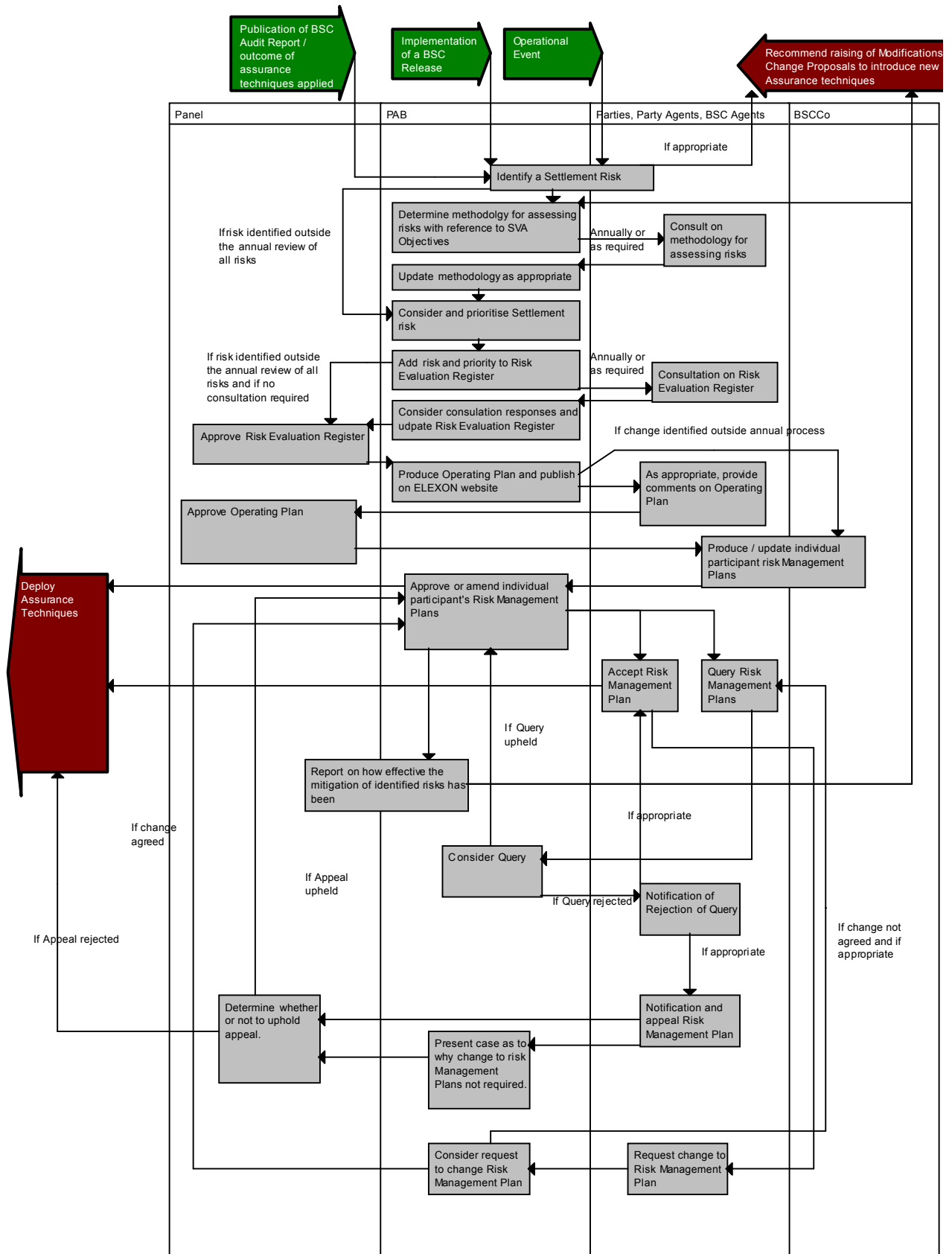
⁴ Note that the Certification Agent will cease to exist nine months after the implementation of Approved Alternative Modification P197 'SVA Qualification Process Review'. A Qualification Service Provider will be in place following the Implementation Date of P197 to deliver the Qualification Service.

1 DESCRIPTION OF MODIFICATION

This section outlines the solution for the Proposed Modification, as developed by the P207 Modification Group ('the Group') during the Assessment Procedure.

For a full description of the original Modification Proposal as submitted by energywatch ('the Proposer'), and the background to the proposal, please refer to the P207 Initial Written Assessment (IWA).

1.1 Risk Evaluation and Assessment Process diagrams



1.2 Risk Evaluation and Assessment Process

1.2.1 Identification of Risks

Following the Implementation of P207 a Risk Evaluation Register would be formed (by the Performance Assurance Board (PAB)⁵, in line with the process described below). This could be a spreadsheet and would detail any requirements under the Code that relate specifically to the CVA and SVA market and are perceived to be of some risk to Settlement. In the SVA Market, the requirements under the Code that, if not complied with, could be considered to be a significant risk to Settlement would be determined with reference to the following two SVA Assurance Objectives:

- Energy is allocated efficiently and equitably between Suppliers, to an acceptable level of accuracy, that is derived from the aggregated consumption of Metering Systems for which each Supplier is responsible; and
- Participants act as good stewards of Metering System data, delivering efficient and effective transfer of this data between Suppliers and Supplier hubs and supporting the equitable allocation of energy.

In the CVA market, the concept would be that any and all areas in the Code that relate to the CVA market would be determined as having a significant effect on Settlement and therefore it would be written into the Code that the same level of assurance as is currently delivered would be so in the future, via the application of existing assurance techniques currently prescribed in the Code.

Additions to the first and subsequent Risk Evaluation Registers can be suggested for consideration by the PAB, by Parties, Party Agents, BSC Agents, BSCCo or other interested parties at any point in time, e.g. via email to BSCCo. However, it is thought that the vast majority of risks would be identified through the implementation of approved changes in a Release or outcomes of any previously applied techniques e.g. the publication of a BSC Audit Report.

The PAB would, as stated above, be responsible for drafting the first version of the Risk Evaluation Register. Over time, the PAB would be responsible for identifying new risks and / or considering any risks that are proposed for addition to the Risk Evaluation Register, as well as detailing the significance that should be associated with the risk. The PAB would also carry out an annual review of the risks contained within the Risk Evaluation Register.

On an annual basis, the PAB would determine the methodology that it would use to assess the risks, determine their significance to Settlement and how participants would be assessed against these risks, based on the two SVA Performance Objectives. The methodology would be consulted on with Parties, Party Agents, BSC Agents and other interested parties. The PAB would take into account any comments received from this consultation to make appropriate changes to the methodology that it uses to assess the risks. Annually, the PAB would use the methodology to identify and / or evaluate risks, which would be added to the Risk Evaluation Register and would issue the Risk Evaluation Register for consultation to Parties, Party Agents, BSC Agents and other interested parties. The PAB would consider the consultation responses submitted in relation to the Risk Evaluation Register and would provide the final version of the Risk Evaluation Register to the Panel for approval.

On an ad hoc basis, the PAB can consider further risks to Settlement for inclusion on the Risk Evaluation Register, or changes to the priority or continued inclusion of existing risks on the Risk Evaluation Register. These further risks may be identified by the PAB, Parties, Party Agents, BSC Agents or BSCCo. The PAB would also be able to consult with Parties, Party Agents, BSC Agents and other interested bodies on these risks, if the PAB feels that a newly identified risk is of a significant materiality to be consulted upon. This

⁵ Note that the Modification Proposal, the Assessment Procedure consultations and the interim report state that the risk evaluation and risk assurance process proposed by P207 would be carried out by two new Panel Committees, the Risk Evaluation Group (REG) and the Risk Assurance Board (RAB). The Modification Group agreed that this process should be undertaken by the PAB and so any references to REG and RAB should be read as references to PAB for the final solution.

consultation would be focused on the particular risk(s) to be added to the Risk Evaluation Register; however, participants would be able comment on any of the other risks in the register, particularly if there is an impact or connection between the new risk and any existing risks. It is envisaged that there would be few consultations of this nature as significant risks are only likely to be introduced by changes to the Arrangements (which are generally delivered three times a year) and following the receipt of a BSC Audit Report (generally delivered once a year). Note therefore that the PAB can update the register whenever it feels it to be appropriate throughout the rest of the year, adding, removing or amending risks without consulting the rest of the industry (if the PAB does not feel that the changes are of a significant nature).

If the PAB believes that a change should be made to the Risk Evaluation Register (whether or not it has been consulted on) the Panel would be asked to agree that change.

1.2.2 Determination of Techniques to be used to mitigate risks

Once a year, the PAB would consider the risks set out in the Risk Evaluation Register and produce an Operating Plan for the forthcoming year. In doing so, the PAB would consider the significance of the risks and the aggregated significance of issues arising across Settlement that have manifested in each risk area with respect to the assurance objectives. The Operating Plan would detail, against each risk on the Risk Evaluation Register, the performance assurance techniques (from the suite of existing performance assurance techniques contained in the Code and to be published on the BSC Website by the Panel) that would be applied over the course of the year to mitigate each individual risk and how these would be applied. Note that there may be more than one technique applied to mitigate against each risk and some techniques may only be applied dependent on the results of other techniques or in the event that an issue manifests in respect of a risk. The Code would specify that the PAB shall determine that all performance assurance techniques would remain applicable to CVA systems and processes to the extent that they are currently defined, for example Accreditation and Certification⁶ of CVA MOAs. It is also envisaged that the performance assurance techniques set out in the Code and Code Subsidiary Documents that cannot be applied flexibly (e.g. Supplier Charges) would be included in the Operating Plan to the extent required under the Code.

Individual participants and the techniques to be applied to them would not be named in the Operating Plan, although the PAB may use its knowledge of the outcome of particular performance assurance techniques at particular participants or classes of participant to inform its production of the Operating Plan (i.e. to determine what performance assurance techniques should be used to mitigate against a particular risk). The Operating Plan would also include an estimate of the BSCCo contracted and operational costs of providing assurance over the forthcoming year. There would not be a formal consultation on the Operating Plan, however once formed, it would be published on the BSC Website, and participants would be notified of its publication. Should any participant wish to comment on the Operating Plan, they would be able to do so to the Panel (via the BSCCo) and would be given a reasonable amount of time to do so before it was presented to the Panel. The Panel would be asked to approve the Operating Plan, noting any comments submitted to it and any amendments to the BSCCo strategy or budget arising from the proposed Operating Plan.

If the Risk Evaluation Register is updated over the course of the year the PAB would consider any additional risks included and, if appropriate, update the performance assurance techniques in its Operating Plan that it would use to mitigate these risks. The PAB would publish a revised version of the Operating Plan should it be updated and notify the industry of its publication. In this circumstance, the Panel would not be asked to approve changes to the Operating Plan (other than at the annual approval process at the end of the year).

⁶ Or Qualification following the Implementation of Approved Alternative Modification P197 'SVA Qualification Processes Review'

Once the Operating Plan has been agreed by the Panel individual Risk Management Plans would be produced for each participant. These would be prepared by the PAB in conjunction with the participant⁷. The Risk Management Plans would detail the risks that have been identified and are relevant to each participant (with an explanation about how the PAB came to that decision where a technique is being applied to one or more participants but not all participant's of that class) and the techniques that would be applied to the participant over the course of the next year (selected from the Operating Plan), to mitigate against those risks. This would include those techniques that cannot be applied based on the risk of the action or the participant under the Code (e.g. Supplier Charges). The Risk Management Plan may also identify issues that have manifested in relation to a risk for that participant⁸. An example of how different participants could have different Risk Management Plans in relation to energisation status mismatches is included in [Appendix 6](#).

The Risk Management Plans would not impose specific resolution actions on participants. Performance assurance techniques identified on a Risk Management Plan may subsequently require a participant to develop its own resolution actions in response of an issue that has been identified at a participant and detailed on its Risk Management Plan. In this case participants would be expected to describe how they intend to resolve the risk in the same way as they currently do.

The PAB would determine the risks that are relevant to each participant by looking at the extent to which the risks highlighted in the Risk Evaluation Register existed in respect of that participant's performance. The way that the PAB determines the risks that are relevant to each participant would be at the discretion of the PAB, but could be based on:

- The participant's dimensions and portfolio of Metering Systems;
- An assessment of the participant's performance history; and
- Knowledge of the relevant control arrangements in place at the participant for each SVA process risk.

Note that these criteria are not included in the draft legal text for P207 or formally documented, as the criteria would be set by the PAB as appropriate. The PAB would ascertain such knowledge about the participant's performance from current market knowledge and the findings of any previously applied assurance techniques. It is envisaged that the majority of techniques would be common to each type of participant; however, if the PAB believes that a particular participant creates more risk to Settlement than other similar participants in a particular area, then the PAB may determine an additional / different performance assurance technique to be applied to that participant (the performance assurance technique must be one that is listed in the Operating Plan as being a technique that may be used to mitigate the risk identified). The PAB must have evidence to support its view that a specific participant presented an additional or significantly greater risk before applying additional techniques (e.g. from the application of previous performance assurance techniques). The PAB's Terms of Reference would state that it should act impartially to ensure that Parties are treated fairly so as not to discriminate against any Party or class of Parties.

If the Risk Evaluation Register and Operating Plan are updated during the course of the year, the PAB⁷ can update individual participants' Risk Management Plans accordingly. Also, if the PAB becomes aware of new information in respect of a particular participant, this could lead to the PAB updating the participants Risk Management Plan (this would still have to be consistent with the Operating Plan). Likewise, if a participant's circumstances change, or they become aware of further details in relation to a performance assurance technique, the participant can request a change to their Risk Management Plan by the PAB at any time and

⁷ Note that whilst the Code will state that the PAB is responsible for producing or changing the participant's Risk Management Plans, in practice, it is expected that the administration of this function would most likely be delegated to BSCCo. The PAB would therefore approve the Risk Management Plans drafted by BSCCo.

⁸ Note that an issue is a non-compliance with the Code or an identified breach of the Code. A risk is something that would become an issue if it occurred, but has not occurred at a particular participant yet. The Risk Management Plan will actually contain both risks and issues associated with a particular participant.

the PAB would determine whether a change to the Risk Management Plan was required. Any changes or requested changes to the Risk Management Plan would have to be justified. The agreement of a Risk Management Plan by a participant at the start of the year does not mean that the participant cannot suggest changes to it over the course of the year.

1.2.3 Performance Assurance Timetable

On an annual basis, the Panel would agree the timetable for the production, consultation and approval (as appropriate) of the following documents:

- Risk Evaluation Methodology;
- Risk Evaluation Register;
- Operating Plan; and
- Risk Management Plans.

The agreed timetable would be published on the BSC Website.

1.2.4 Query of Risk Management Plan

If the participant disagreed with an element of its own Risk Management Plan on any reasonable grounds, following the formation of the Risk Management Plan or any changes to the Risk Management Plan, then the participant would clarify this with the PAB by the time of the next appropriate PAB meeting. BSCCo would provide support to participants should they wish to discuss any element of their Risk Management Plans with the PAB. The participant would be entitled to attend the PAB meeting to discuss their Risk Management Plan if this was necessary. It is envisaged that this discussion would take place whilst the Risk Management Plans are being drafted and prior to the Risk Management Plans or any changes to the Risk Management Plans being approved by the PAB.

If, following the PAB approval of a participant's Risk Management Plan, the participant (still) disagreed with an element on the Risk Management Plan, or the participant had requested a change to their Risk Management Plan and did not agree with the decision reached by the PAB, the participant could lodge a formal Query to the PAB. This would have to be within 10 Working Days of the PAB approval of the Risk Management Plan, the PAB approval of changes to the Risk Management Plan or the PAB agreeing whether to make changes to the Risk Management Plan proposed by the participant. This Query would be in writing and could be made simply on the grounds that the participant (acting reasonably) does not agree with a particular element of their Risk Management Plan. Note that it is envisaged that a participant would not be able to argue a legitimate Query on whether or not a technique should be applied where there is a clear requirement in the Code stating that the technique shall be applied to the participant (e.g. the application of Supplier Charges to participants as set out in the Code).

The Query would be heard at a formal meeting (i.e. monthly PAB meeting) and the participant raising the Query would be entitled to attend. The PAB would discuss the Query and respond to it formally i.e. by providing a written response. The PAB may revise the Risk Management Plan as a result of the Query in line with their findings on the Query.

If a Participant queried an element of its Risk Management Plans, the PAB would continue to apply the performance assurance techniques currently in place and operating under the last agreed Risk Management Plan. The application of any newly proposed performance assurance techniques or new applications of an existing technique would be deferred pending the outcome of the Query. Should a Query be upheld, the PAB would determine the date at which the upheld Query would apply from (e.g. the date that the Query was first raised or another more appropriate date).

For the avoidance of doubt, it is proposed that for the purposes of determining which PAF techniques would continue to apply in the event of a Query in respect of the first Risk Management Plan(s) that are produced,

the application of the PAF techniques currently in operation under the existing Code shall be considered to comprise each participant's last agreed Risk Management Plan.

1.2.5 Appeal of Risk Management Plans

If within 10 Working Days after receipt of a Query Response the participant still disagreed with the PAB over an element of its Risk Management Plan, a Party could lodge an Appeal with the Panel. Only an affected Party could lodge an Appeal. If an affected participant was a Party Agent and it was still in disagreement with the PAB then it would have to seek support from an associated Supplier to Appeal to the Panel on its behalf. The grounds for Appeal to the Panel would be:

- The PAB had not followed the correct procedures under the Code or CSD; and / or
- The PAB had given too little or too much weight to particular circumstances or evidence submitted, or to the lack of particular circumstances or evidence submitted; and / or
- The PAB had misinterpreted all or some of the evidence submitted.

The Panel would then hear the Appeal. This would be at the next available Panel meeting and would be in the confidential session of the Panel meeting. The Party raising the appeal would be able to attend and put forward any representation in support of the Appeal, but would not be obliged to attend. The Panel would determine whether to uphold the Appeal or not and would provide a formal response to the Party in writing as to the outcome of their Appeal.

If a Party appealed an element of its Risk Management Plans to the Panel, the PAB would continue to apply the performance assurance techniques currently in place and operating under the last agreed Risk Management Plan. The application of any newly proposed performance assurance techniques or new applications of an existing technique would be deferred pending the outcome of the Appeal. Should an Appeal be upheld, the Panel would determine the date at which the upheld Appeal would apply from (e.g. the date that the Appeal was first raised or another more appropriate date).

For the avoidance of doubt, it is proposed that for the purposes of determining which PAF techniques would continue to apply in the event of an Appeal in respect of the first Risk Management Plan(s) that are produced, the application of the PAF techniques currently in operation under the existing Code shall be considered to comprise each participant's last agreed Risk Management Plan.

1.2.6 Application of Performance Assurance Techniques

Common performance assurance techniques (i.e. those performance assurance techniques that are being applied to all participants of a particular type in respect of a risk that they all share) would be applied to all participants in the same way and to the same extent. Further Performance Assurance techniques (i.e. those that are being applied to specific participants) would only be applied where a participant significantly contributed to the existence of a risk or issue identified within the Risk Evaluation Register and may comprise targeted audits, escalation proceedings or similar. Both common and further assurance techniques would be set out in the Operating Plan and on each participant's Risk Management Plan.

The PAB would ensure that the application of both common and further assurance techniques would be consistent between participants in similar circumstances. The PAB would apply techniques fairly, consistently and in a non-discriminatory nature.

As each technique is applied, participants' performance would be reported to the PAB via an outcome report⁹ in accordance with the reporting requirements of current performance assurance techniques. Any non-confidential outcome report would be published on the BSC Website. Where the application of a

⁹ The term 'outcome report' is used here to refer to the many and various outputs of each performance assurance technique, e.g. Technical Assurance non-compliance reports, Peer Comparison Reports, Supplier Charge Reports, etc. In this context, the BSC Auditor's Annual Report is an 'outcome report', as are individual audit issue documents.

performance assurance technique provides further information about a participant's performance this may be used to update that participant's Risk Management Plan (in line with the Operating Plan). This may mean that additional techniques could be applied to a participant throughout the year. Where the outcome of a technique indicates that a participant is not meeting significant obligations in the Code, escalation processes could allow for the PAB and ultimately the Panel to be informed of the participant's poor performance in order that further provisions set out under the Code may be applied in accordance with the powers of the PAB and the Panel.

If new information is collected about an existing or potential new risk or issue following the application of a performance assurance technique, then the PAB could consider whether it should be added to the Risk Evaluation Register.

1.2.7 Annual Report

Once a year, the PAB would prepare an annual report for presentation to the Panel and the industry. The report would contain the results of the work performed by the PAB, particularly to what extent assurance had been provided to mitigate against the risks identified in the Risk Evaluation Register. The bulk of the report would be concerned with the findings of the different assurance techniques that had been applied during the period and the results that had been obtained from the application of those techniques. The report would also contain details of the cost of the provision of the assurance framework over the course of the year and how these costs compare to the costs set out originally in the PAB's Operating Plan; any deviations would be explained. This report may also include areas in which the performance assurance techniques could be improved, for example via a Modification Proposal and may request that the Panel raises a Modification Proposal in this area. The report would also highlight whether there are potential cost savings of making changes and the benefits of making changes. The Annual report would be a non-confidential report that would be published on the BSC Website. It would not contain any participant specific Confidential Information.

1.3 Example of the new Risk Based Performance Assurance Process

An example of how the new process could operate is set out in [Appendix 5](#).

1.4 Formation of Panel Committee responsible for Risk Evaluation and Risk Assurance

Under P207, the PAB would continue to be responsible for performance assurance under the Code and would continue to be accountable to Trading Parties (note that this accountability is currently detailed in the PAB's Terms of Reference and is drawn from Annex B-1, 4.1 of the Code). The PAB's Terms of Reference would be amended so that they would be able to evaluate the risks that occur in the market and apply performance assurance techniques to participants based on the risks posed by those participants. The clause in the Code that relates to the PAB being the Panel would have to be removed so that the Panel would be able to hear Appeals raised by a participant who disagrees with the PAB over its Risk Management Plan.

The PAB would have the ability to recommend to the Panel that it raise a Modification in any particular area relating to performance assurance (risk evaluation or risk assurance) that it feels to be appropriate. Should the PAB recommend a change to a Code Subsidiary Document relating to performance assurance, they would request that the BSCCo raises a Change Proposal (CP) and this CP would have the endorsement of the PAB.

The PAB would continue to be formed of industry experts acting independently; that is, when appointed to the PAB by the Panel their role is that of industry expert; members would act impartially and would not represent the interests of their employer. It is expected that the membership of the PAB would remain the same following the implementation of P207 as it is prior to the implementation of P207. It was noted by the

Group that appointment of members to Panel Committees is the responsibility of the Panel, however the Panel might wish to ensure that the members have knowledge and experience of present issues and risks within the market and the application of risk assurance models.

The PAB meeting would be held in open session where the PAB was discussing the risks that should be included on the Risk Evaluation Register. This means that anyone entitled to attend an open session of a Panel meeting can attend the meetings, but may only speak at the invitation of the chairperson. This is based on the assumption that the PAB would be looking generally at risks in the market. If the PAB was considering any Confidential Information relating to risks that could be included on the Risk Evaluation Register, then this section of the meeting would be confidential.

Where the PAB is discussing the Operating Plan, Risk Management Plans, the Annual report, the performance of a particular participant or any other business, the meeting would be in closed session as the matters to be discussed may be confidential. If however, a participant is discussing or querying its Risk Management Plans with the PAB, the participant would have the right to attend the appropriate part of the PAB meeting. If the PAB is discussing a specific participant's performance as a result of the application of a particular performance assurance technique, the participant may¹⁰ be invited to attend that part of the PAB meeting.

The BSC Auditor currently is a non-voting attendee of the PAB, however under P207, the BSC Auditor would only be invited to attend meetings of the PAB as and when required (and would continue not to have a vote). Other experts would be invited to attend meetings of the PAB as and when required. These experts would not be voting members of the PAB. Ofgem and energywatch (or its successor, as appropriate) would be able to attend meetings of the PAB as non-voting attendees. The BSCCo Chief Executive (or his representative) would continue to be obliged to attend meetings of the PAB as a non-voting attendee. BSCCo would continue to provide a chair and secretariat to the Group. The PAB would continue to meet on a monthly basis. The Performance Assurance Administrator (PAA), a function carried out by BSCCo, would continue to exist under P207 so that the PAB can continue to delegate any day to day activities that it so required to BSCCo.

1.5 Changes required to current Performance Assurance Techniques

The following changes would need to be made to the current performance assurance techniques to ensure that they could be used flexibly under a risk based Model:

- BSC Audit – the BSC Audit would change to allow the Panel (on the recommendation of the PAB)¹¹ to vary the scope of the audit for the SVA market based on the risks set out in the Risk Evaluation Register. Participants in the CVA market would continue to be audited as they currently are;
- Technical Assurance of Metering Systems – Technical Assurance of Metering Systems would change to allow the PAB to vary the scope of Technical Assurance Audits and the sample to be checked in the SVA market based on the risks set out in the Risk Evaluation Register. Participants in the CVA market would continue to have Technical Assurance of Metering System checks applied to them as they currently are;
- Escalation to Panel Committee – The ability to escalate a participant to a Panel Committee or the Panel would be based on the risk (with reference to the two SVA Assurance Objectives, where appropriate) that the participant poses to the market when they are underperforming, determined by the outcome of one or more performance assurance Techniques; and

¹⁰ Note that this paragraph states that the participant 'may' be invited to attend the PAB. If the PAB is discussing a number of participants' performance generally in relation to a particular matter then it is unlikely that the participants would be invited to attend. If the PAB was focussing on the performance of one particular participant in a certain area, then it is likely that the participant would be invited to attend.

¹¹ The Panel currently has the responsibility of defining the scope of the BSC Audit, to the extent allowable under the Code. Under P207, the Panel would retain this responsibility, although it may be a role that the Panel would want to delegate to the PAB.

- Qualification – Under Approved Alternative Modification P197 'SVA Qualification Process', the responsibility for the Qualification process was placed on the Panel¹². Under P207, this responsibility would be placed directly on the PAB in the Code.

2 AREAS RAISED BY THE TERMS OF REFERENCE

The following areas were considered by the Modification Group during the Assessment Procedure for P207:

- The high level process for the risk based approach to assurance;
- Performance assurance in the CVA market;
- The role of the Panel and Panel Committees under the risk based governance framework;
- The impact of P207 on the current performance assurance techniques;
- The impact of P207 on the Code and Code Subsidiary Documents;
- The interaction of P207 with approved Alternative Modification P197 'SVA Qualification Processes Review';
- The status of existing non-compliances under P207;
- The consideration of the next steps should P207 be approved; and
- Potential alternative solutions.

These issues are discussed in the Assessment Report contained in [Appendix 3](#), and are not covered further here.

3 IMPLEMENTATION APPROACH, TRANSITIONAL ARRANGEMENTS AND COSTS

3.1 Current Costs of Performance Assurance

The PAF Review considered the costs of performance assurance and identified the approximate costs detailed in the table below. The costs expended by Suppliers and Supplier Agents were extrapolated from limited information and from responses to the PAF review consultation. Members of the PAF Review core working group suggested that the Supplier and Supplier Agent cost is a conservative estimate.

Activity	Cost ¹³
BSCCo costs	
BSC Audit and Certification contracted costs	£2m per annum
Technical Assurance contracted costs	£0.7m per annum
Entry Process contracted costs	£0.5m per annum
BSCCo Operational costs	£0.6m per annum
<i>Total BSCCo costs</i>	<i>£3.8m per annum</i>
Supplier and Supplier Agent Costs	
Operational costs	£1.7m – £2.6m per annum

¹² Note that the Panel has subsequently delegated the authority for this role to the PAB.

¹³ Note that these costs were derived by the PAF Review Core Working Group and therefore represent the costs of performance assurance in 2004-2005

Activity	Cost ¹³
Total Costs	
Total	£5.5 – 6.5m per annum

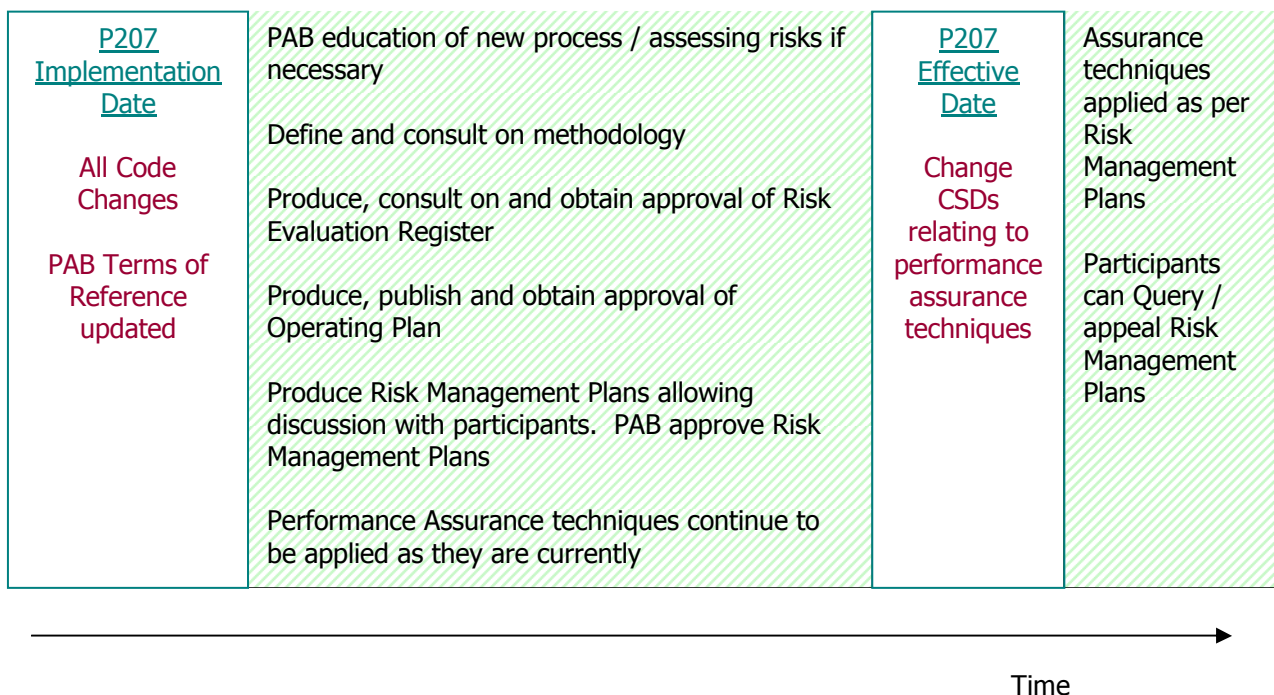
The BSCCo costs incorporate the following techniques:

- BSC Audit;
- Entry Process, Accreditation and Certification;
- Technical Assurance of Metering Systems;
- Technical Assurance of Supplier and Supplier Agents;
- Peer Comparison, the operation of PARMS and Supplier Charges; and
- Error and Failure Resolution.

The cost of performance assurance to Suppliers and Supplier Agents is distinct from the cost of participants complying with the Code. Full details of the PAF Review core working group discussions in this area are included in the Findings of the PAF Review, Appendices B and D (Reference_1 and Reference_2).

3.2 Implementation Approach

The implementation approach for P207 is shown in the diagram below:



The implementation approach for P207 will see two separate sets of changes being introduced. On the Implementation Date, all changes to the Code will be made. The changes will include the new process and PABs role in this, adding the SVA Objectives and the changes that will need to be made to the Code to introduce flexibility into the techniques. The changes to the techniques will include clauses to say that they do not come into effect until the effective date of P207. The changes required to the PAB’s Term of Reference will also be produced for the P207 Implementation Date.

Following the Implementation Date, the PAB will produce the methodology, the Risk Evaluation Register, the Operating Plan and approve the Risk Management Plans, in line with the Code requirements. If necessary, there may need to be education provided to the PAB, the Panel, and the industry at this stage. Whilst the

PAB is producing these documents, they will continue to apply current assurance techniques in line with the current process.

The effective date of P207 is the date at which all the changes to the current assurance techniques that will be included in the Code and Code Subsidiary Documents will take effect and from this date, the PAB will begin to apply the performance assurance techniques to participants as set out in their Risk Management Plans. This date would coincide with the time that all the Risk Management Plans have been approved by the PAB. Should a participant wish to query or appeal their Risk Management Plan, then this is likely to occur after the P207 effective date, however the participant would be bound by the timescales set out in section 1.2.4 (and so this could be before the P207 effective date if appropriate).

The implementation approach ensures that the process by which the methodology, the Risk Evaluation Register, Operating Plan and Risk Management Plans are produced is contained in the Code whilst these documents are being produced. However, the PAB would not be able to apply the techniques flexibly until after the P207 effective date.

PROPOSED MODIFICATION IMPLEMENTATION COSTS¹⁴

	Stand Alone Cost	Incremental Cost	Tolerance
Total Demand Led Implementation Cost 15	£30,000	£30,000	+/- 100%

BSCCo Implementation Resource Cost	717 man days £157,740	587 man days £129,140	+/- 10%
Total Implementation Cost	£187,740	£159,140	+/- 30%

PROPOSED MODIFICATION ONGOING SUPPORT AND MAINTENANCE COSTS¹⁶

Year 1	Stand Alone Cost	Incremental Cost	Tolerance
Consultancy Support	£40,000 ¹⁷	N/A	+/-10%
BSCCo Operational Cost	491 Man Days	N/A	+/-10%

¹⁴ An explanation of the cost terms used in this section can be found on the BSC Website at the following link:
http://www.elexon.co.uk/documents/Change_and_Implementation/Modifications_Process_-_Related_Documents/Clarification_of_Costs_in_Modification_Procedure_Reports.pdf

¹⁵ This cost relates to procuring a new system for BSCCo to manage Risk Management Plans or making changes to the current Resolution Monitoring System to manage the Risk Management Plans.

¹⁶ This includes production of the methodology, Risk Evaluation Register, Operating Plans and participant Risk Management Plans.

¹⁷ This equates to a consultant who is knowledgeable in the area of risk for one day per week for a year. This consultancy support would be appropriate to allow an independent and expert view on the application of assurance to a risk based methodology. It is expected that any consultant would provide training in the area of risk. This training may take place throughout the whole of the first year and include support on writing the documents required by P207.

	£ 108,020		
Total Operational Cost	£148,020	N/A	+/-10%

Subsequent Years	Stand Alone Cost	Incremental Cost	Tolerance
Total Operational Cost	321 Man Days £ 70,620	N/A	+/-10%

The Implementation costs can be broken down as follows:

Item	Man Days	Cost
Code Subsidiary Documents / Terms of Reference	268	£58,960
Risk Management System	45 + cost of system	£9,990 + £30,000
Guidance / Webpages / Education / BSCCo Local Working Instructions	139	£30,580
Project Management and Assurance (stand alone cost) ¹⁸	265	£58,300
Project Management and Assurance (incremental cost) ¹⁸	135	£29,700

The operational costs are the effort required to produce the methodology, the Risk Evaluation Register, the Operating Plan, the Risk Management Plans and the Annual Report. Note that there could be as many as 170 Risk Management Plans and the operational costs are based on this number of Risk Management Plans. This includes 27 Suppliers, 115 Party Agents and SMRAs, 14 Licenced Distribution System Operators and 14 Unmetered Supplies Operators. This assumes that there is one Risk Management Plan for each participant. The PAB in conjunction with participants may wish to group Risk Management Plans where for example participants operate more than one Party Agent role. Note that this may lead to a reduction in the operating costs of the new regime, however the extent of this will not be known until Risk Management Plans begin to be produced.

It is not possible at this stage to determine whether there would be any central cost savings until the PAB has determined the first Risk Evaluation Register, Operating Plan and Risk Management Plans. If the Performance Assurance Techniques in operation under P207 are applied to the same extent as they are now, then the BSCCo operational cost of Performance Assurance would increase from £600,000 to £670,000 (from year two onwards). However it is not possible to determine to what extent performance assurance techniques would be applied under P207 and therefore the consequential changes in operational costs. It should be noted that the BSC Audit Review conducted in 2005 indicated potentially significant central cost savings ranging up to £1m plus (for auditing only central systems, Reference_3). These could only be realised by varying the BSC Audit scope and approach (under P207). It may be that if central savings are made in one technique that some of these would be re-invested in other, complementary techniques such as Technical Assurance targeted audits.

¹⁸ Note that the stand alone cost is only applicable if the modification was to be implemented outside of a scheduled release. If the Modification is implemented in a scheduled release then the incremental cost applies. The first Proposed Implementation Date for P207 is a scheduled release.

a) BSC Agent Impact

The BSC Auditor and Technical Assurance Agent are impacted by this Modification as the scope of the BSC Audit and Technical Assurance of Half Hourly Metering Systems would be based on 'at risk' areas. The work of these BSC Agents would be determined through the participant Risk Management Plans.

b) Party and Party Agent Impact

Five participants responded to the Impact Assessment. All respondents stated that they were impacted by the proposed change. Respondents suggested that there would need to be education, training and updates to their working procedures to implement this change. One respondent noted that they would be impacted as they could have to respond to the additional consultations, keep abreast of developments and be involved in any subsequent Modifications to the performance assurance techniques. All respondents suggested that it is not possible to quantify the full impact of the Modification on them as they do not know what will be on their individual Risk Management Plans. One respondent suggested that they would need a three month lead time from the Authority approval of the Modification to the Implementation Date since they had not yet seen the P207 legal text and therefore were not fully aware of the impacts on their organisation. The same Party subsequently agreed with the Implementation Date proposed during the report phase consultation. The Party and Party Agent Impact Assessment responses are included in Appendix 4 of the Assessment Report.

c) Transmission Company Impact

The Transmission Company has confirmed that P207 has no impact on it. The Transmission Company's Analysis response is included in Appendix 4 of the Assessment Report.

d) BSCCo Impact

The impact on BSCCo is split into the implementation of the Modification (i.e. change to the Code, Code Subsidiary Document, other documents and systems) and the Operation of the new Performance Assurance Framework governance which includes the production of the methodology, Risk Evaluation Register, Operating Plan, Risk Management Plans and Annual Report.

Implementation

BSCCo has identified that the following implementation activities will have to be carried out prior to the P207 Implementation Date:

- Changes applied to the Code;
- Update of references from the Panel to the PAB for Qualification, update of references to Annex B-1, J1.4 and Annex J-1 in BSCP537;
- Changes to PAB Terms of Reference;
- Procurement of consultancy support for training and assisting in the writing of the methodology, Risk Evaluation Register, Operating Plan and Risk Management Plans; and
- Some changes to existing and creation of new guidance notes, BSC Website pages and internal Local Working Instructions.

A minimum of a two month lead time is required by BSCCo between any Authority approval of P207 and the Implementation Date to carry out the activities required for the Implementation Date. To allow the changes to the Code Subsidiary Documents to be made for the Implementation Date of P207, BSCCo will have to draft these changes prior to any decision being provided by the Authority on P207, so that they could be issued for Industry review shortly after any approval of P207 by the Authority. This work is estimated to

take 3 man days. At its meeting on the 12 April 2007, the Panel agreed that this work could be carried out prior to the receipt of an Authority decision on P207.

Following the Implementation Date but before the first set of Risk Management Plans are produced, BSCCo will need to have procured a new system (or made changes to the existing Resolution Management System) to manage the Risk Management Plans. BSCCo believes that without a system of this type, more BSCCo resource would be required to manage the Risk Management Plans. BSCCo believes that it would be more cost effective to use a system than employ new staff to manage the Risk Management Plans.

The following implementation activities will need to be carried out for the effective date:

- Changes to the rest of the Code Subsidiary Documents detailed in Appendix 4 of the Assessment Report;
- Education / Communication of what the new process will be from the effective date;
- Changes to existing guidance Notes;
- New Guidance Note(s) to be written describing the new process;
- Changes to Webpages; and
- Changes to BSCCo Local Working Instructions.

BSCCo would require a twenty four week lead time to make the changes required to the Code Subsidiary Documents.

Operation

BSCCo will be impacted by the operation of the new Framework. BSCCo will have to support the PAB in producing the methodology, Risk Evaluation Register, Operating Plan, Risk Management Plans and Annual Report. BSCCo will also have to arrange for training of PAB members in the area of risk evaluation. A fourteen month lead time is required to produce the first methodology, Risk Evaluation Register, Operating Plan and Risk Management Plans. [Appendix 7](#) shows indicative project plans for the production of the methodology, Risk Evaluation Register, Operating Plan and Risk Management Plans.

4 RATIONALE FOR MODIFICATION GROUP'S RECOMMENDATIONS TO THE PANEL

This section summarises the recommendations of the Modification Group, as detailed in the Assessment Report in [Appendix 3](#).

4.1 Assessment of Proposed Modification Against Applicable BSC Objectives

The **MAJORITY** view of the Modification Group was that the Proposed Modification **WOULD** better facilitate the achievement of Applicable BSC Objectives (b), (c) and (d) when compared to the current Code baseline, for the following reasons:

Applicable BSC Objective (b) - The efficient, economic and co-ordinated operation of the GB Transmission System:

- The Modification will allow a greater focus on the more material issues in Settlement. This will lead to the quicker resolution of these issues which will feed through into better demand forecasting.

Applicable BSC Objective (c) - Promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity:

- More new entrants will join the market if there is increased confidence that existing participants are complying with their obligations;
- Focussing on significant risks tackles the potentially discriminatory impact of inequitable energy allocation which may disproportionately affect small players;
- In the long term, cost savings will be derived by participants cleaning up data and more appropriate allocation of Settled energy;
- The change will allow the market to prioritise issues and potential issues in the market which will result in the biggest causes of error in the market being tackled more robustly than they have been to date;
- The current process already seeks to focus on the more material issues as a priority however P207 will ensure that the nature and materiality of the impact is more fully understood by participants;
- The PAB will be able to identify and highlight risks that are seen as significant. This will mean that SVA participants can concentrate on resolving these risks so that energy is allocated more equitably between Suppliers and that the transfer of Metering Systems between Supplier hubs is underpinned by improved data quality;
- Issues in high risk areas should be resolved sooner as they will be seen as higher priority;
- Participants will be able to focus resource onto significant risks as opposed to ensuring compliance with every insignificant risk which will lead to increased efficiency of the overall Settlement Process at market participants;
- Addressing significant risks should encourage new participants that enter into the market to have more robust systems as their awareness of the significant risks would allow them to address or at least mitigate these risks prior to market entry;
- The new process will be clearer and more transparent than the current process. This will be particularly achieved by defining the SVA Assurance Objectives. Under the new process, the PAB will be more accountable to Parties meaning that performance assurance techniques will be more consistently applied; and
- Whilst the central costs of implementing and operating the Modification are high, on balance the benefits of the Modification outweigh these costs.

Applicable BSC Objective (d) - Promoting efficiency in the implementation and administration of the balancing and Settlement arrangements:

- BSCCo will be able to focus resource onto identifying and helping the industry to resolve significant risks as opposed to all non-compliances with the Code. This will lead to increased central efficiencies; and
- More focus on resolving short-term problems has long-term efficiency benefits for the Balancing and Settlement arrangements.

The **MINORITY** view of the Modification Group was that the Proposed Modification **WOULD NOT** better facilitate the achievement of Applicable BSC Objectives (c) and (d) when compared to the current Code baseline, for the following reasons:

Applicable BSC Objective (c) - Promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity:

- The process for scoping the work will change however the process appears to remain fundamentally unchanged featuring the same Parties, issues and corrective techniques;
- P207 would be a barrier to market entry as new entrants will have to have more robust systems which will make it more difficult for them to enter the market;
- The Code will still have an obligation on parties to fully comply. P207 could be considered to be reducing that obligation by assigning priorities to different issues;
- The appeal routes could lead to delays in addressing issues;
- P207 talks about significant risks, however the Modification Group have not determined what a significant risk is and so it is difficult to assess how this would be applied;
- The introduction of Risk Management Plans may be fairly burdensome for new entrants and it is likely that their activities will be regarded as higher risk than participants already active in the market;
- Participants are obliged to be fully compliant with the Code, and risk based approach to assurance will not change this. Therefore a risk based approach to assurance will not achieve anything; and
- The final solution agreed by the Modification Group is cumbersome.

Applicable BSC Objective (d) - Promoting efficiency in the implementation and administration of the balancing and Settlement arrangements:

- The central costs and associated increased bureaucracy means that P207 will be inefficient; and
- The change does not justify the implementation costs.

The Group agreed that the Proposed Modification would have a neutral impact on Applicable BSC Objective (a).

One member of the Group noted that he felt that the current big issues in Settlement might be in a better state now if a risk based approach to Performance Assurance had been applied in the past.

Another Group Member suggested that the increased efficiency of the new process would extend beyond the Code to consumers.

Two members suggested that the move away from a Panel Committee formed of members that represented their company's views means that this Modification is not as effective as it could have been.

4.2 Implementation Date

The Modification Group agreed the following recommended implementation approach for P207:

- An Implementation Date for the Proposed Modification of 23 August 2007 if an Authority decision is received on or before 21 June 2007, or 28 February 2008 if the Authority decision is received after 21 June 2007 but on or before 15 November 2007.

The corresponding effective dates would be an effective date of 1 November 2008 if the Modification was implemented on the 23 August 2007 or 25 June 2009 if the Modification was implemented on the 28 February 2008.

The PAB would be able to start producing the methodology from the Implementation Date of P207 and would be able to start applying performance assurance techniques in accordance with participants Risk Management Plans from the effective date of P207.

4.3 Legal Text

The P207 draft legal text introduces a new Section Z in to the Code for Performance Assurance. This allows the provisions related to Performance Assurance to be included in one place. Annex B-1, Section J1.4 and Annex J-1 have been moved into the new section Z. Section Z also includes the provisions introduced under P207.

The individual Performance Assurance techniques remain in their current sections.

The Modification Group discussed where the SVA Assurance Objectives should sit. A number of members of the Group felt that these should sit in Section B1.2.1 with the Panel Objectives as they felt that these should sit above the Performance Assurance Framework as opposed to within it. The reasons for this were that members of the Group felt that if these objectives are not included in Section B, then the Panel would be approving the Risk Evaluation Register and Operating Plan on a different set of criteria to the PAB and the Panel Objectives might outweigh the SVA Assurance Objectives, which would not be desirable. The Panel would also be hearing Appeals on different criteria to the PAB. Some Group Members suggested that if the SVA Assurance Objectives are not included in Section B, then the draft legal text would not be consistent with their view of the Modification.

The legal advice to the Modification Group was that if the SVA Objectives are to be included in the Code, then they should sit in section Z. The rationale for this is that the Panel Objectives are drawn from the Electricity Act and Transmission Licence and these encompass the whole Code. Therefore the SVA Assurance Objectives do not sit well in the Panel Objectives as they are specific to Performance Assurance. Also, as currently stated in section B1.2.1, the Panel has to conduct their business to ensure that the Code is given effect fully and promptly and so if the SVA Assurance Objectives were in Z, the Panel would still have to taken them into account when considering Performance Assurance matters.

Taking into account the Legal advice provided, the Group agreed that the SVA Assurance Objectives should sit in section Z; however a clause should be added to the Panel Objectives to refer the Panel to the SVA Assurance Objectives when they are considering matters relating to Performance Assurance. It should however be noted that the Legal advisors reiterated that adding this clause into Section B is surplus to requirements since the Panel has consider the whole of the Code when considering Performance Assurance matters in any case.

The Modification Group reviewed the draft legal text by correspondence and 7 Group members confirmed that they agree with it.

A copy of the draft legal text can be found in [Appendix 1](#).

5 RATIONALE FOR PANEL'S RECOMMENDATIONS TO THE AUTHORITY

5.1 Panel's Consideration of Assessment Report

The Panel considered the P207 Assessment Report at its meeting on 12 April 2007. This section summarises the Panel's discussions in formulating its provisional recommendation for inclusion in the draft Modification Report. Details of the Report Phase consultation responses, the Panel's discussion of the responses and its final recommendation to the Authority can be found in Sections 5.2, 5.3 and 5.4 respectively.

5.1.1 Panel's discussion

The Panel noted the overall diligence of the Modification Group and the many and varied points that had arisen during the assessment of the Modification Proposal. Whilst the sheer volume of points gave the Panel comfort over the rigour of the assessment, it was felt that the manner in which these matters were documented within the Assessment Report meant that the assessment of the fundamental principles which underpin the Modification Proposal was not as clear as it could be.

The Panel reaffirmed that the overall purpose of the Modification Proposal was to introduce a new governance regime which could deliver more targeted performance assurance through the application of techniques to the issues that posed the greatest risk to Settlement, an outcome that throughout the PAF review was considered to be very desirable. The ability to tailor techniques to both issues and to individual participants should promote focus on the areas that are more significantly undermining performance. This in turn should assist in promoting overall data quality.

The Panel felt that the participants that would be most likely to be impacted by P207 would be the ones who are falling short of fulfilling their BSC Obligations. These participants should rightly expect to see more focus being placed upon them by the performance assurance regime, and in turn these participants would be assisted through their Risk Management Plan to address their key risk areas. Conversely those participants who were meeting their BSC obligations are likely to see less performance assurance techniques being applied to them. In all cases the Panel felt that under P207 participants would have a better understanding of how their performance and actions would impact the market and would be able to prioritise their remedial actions accordingly. The overall effect should be that performance and data quality would improve over time, which would be to the benefit of all participants, and the performance assurance regime would be more efficient, focusing on key risks.

The Panel felt that it would have been more informative if the cited costs in the assessment report of providing performance assurance had been revisited (the Assessment Report recorded the cost estimates that were produced under the preceding PAF Review, and some of these were acknowledged to be conservative). The Panel noted that some participants to the Impact Assessment had stated that it was not possible to identify the cost to them of supporting performance assurance techniques under P207 as they would not be aware of what techniques will be applied to them until they see their Risk Management Plan. Likewise, whilst the BSCCo costs had been updated, these remained an estimate as it was not possible to identify the exact costs of operating the performance assurance techniques under P207 without knowing how each technique would be deployed under the individual Risk Management Plans. Nevertheless, the Panel felt that the ability to reduce the costs of performance assurance overall depends on the degree of compliance in the industry. The principal driver of costs is participants' non-compliance. Therefore P207 through its more targeted approach should lead to longer term cost savings for the overall provision and support of the performance assurance framework, and these savings could be material.

The Panel felt that the aim of P207 was to establish a framework for going forward and introduce targeted risk based assurance of participants, and when viewed in its entirety, the Proposed Modification delivered this aim.

The Panel noted the reference to the use of consultants to provide education and advice during the first year of the process and questioned whether this was necessary and whether this could be resourced internally. The Panel noted the implementation approach described in section 3.2 and that whilst the Modification would be implemented on the Implementation Date, the performance assurance techniques would not be applied in accordance with the Risk Management Plans until these had been produced for the effective date. The Panel noted that the use of consultants was only for the period between the Implementation Date and the effective date, and it would be up to the PAB to decide whether they were needed. It had been included in the Assessment Report as an optional provision, and as a possible cost associated with implementation.

A Panel Member questioned how the revised PAB Terms of Reference would be agreed and noted a response which assumed these Terms of Reference would be consulted upon with the industry. It was

explained that this response had been discussed with the respondent and the comments stemmed from the fact that the respondent believed the risk methodology itself would form part of the new Terms of Reference. It was confirmed that the risk methodology would not form part of the Terms of Reference. The Terms of Reference would not introduce any additional powers or duties that were not already provided for within the P207 text and that they would additionally describe how PAB meetings would be run and governed. In common with other Panel Committees the Terms of Reference would be approved by the Panel itself.

One Panel Member observed that, as a result of the Modification, there were some fundamental shifts in practice for the Panel and its relationship with PAB, and that these should be noted by the Panel. In particular, there will be a new role for the Panel in hearing Risk Management Plan Appeals. The Panel Member was cautious over the benefits of including this provision as it allowed participants to challenge the decisions of the PAB and thereby could be employed to frustrate the process. It was however confirmed that an individual participant's latest plan would remain in force pending the Appeal being considered, and that there would have been a full dialogue between PAB and the participant before it reached the Appeal stage. On balance the Panel Member agreed that the overall governance package anyway had considerable merit.

A number of Panel Members had other reservations over the Appeal process, particularly if a large number of Appeals were raised in the first year. The Panel took some comfort from the fact that participants would be consulted on the methodology used to produce the Risk Evaluation Register and the Risk Evaluation Register itself. Participants would also have the ability to comment on the Operating Plan, and the individual Risk Management Plans would be produced in conjunction with the participants. The active engagement of participants through bilateral dialogue in these processes should result in the resolution of all but the most substantial issues and significantly reduce the risk of being overwhelmed with Appeals. One Panel Member noted that the concept of an individual plan was not new, as participants frequently have to agree a course of action with PAB under the existing arrangements.

P207 would also give the PAB the ability to recommend Modifications to the Panel (as per the Trading Disputes Committee (TDC)). The Panel felt that providing an independent and expert Panel Committee with the ability to recommend changes that address issues or defects falling within their sphere of responsibility was generally good governance. Furthermore it was noted that the PAB would make a recommendation to the Panel to raise a Modification Proposal. The PAB would not be able to raise Modifications directly.

5.1.2 Applicable BSC Objectives

The unanimous provisional view of the Panel was that the Proposed Modification would better facilitate the achievement of Applicable BSC Objectives (c) and (d) when compared to the current Code baseline, for those reasons provided by the majority of the Modification Group set out in section 4.1.

The Panel agreed that the Proposed Modification would have a neutral impact on Applicable BSC Objectives (a) and (b).

The Panel therefore agreed a unanimous provisional recommendation to the Authority that the Proposed Modification should be made.

5.1.3 Implementation Date

The Panel noted that the first Implementation Date would not give the Authority much time to make a decision (approximately five weeks), particularly if the Authority wishes to carry out a regulatory Impact Assessment on P207.

The Panel noted that the first proposed Implementation Date would align the implementation of P207 with that of approved Alternative Modification P197.

The Panel felt that if the Authority just missed the first decision date, this would result in a lengthy period of time elapsing before the second Implementation Date. The Panel felt that should the Authority approve the modification, then it should to be implemented as soon as reasonably possible.

In light of the Panel's concerns and recognising that the additional work now necessary prior to the Implementation Date were changes to references in a BSCP and the revision to the PAB's Terms of Reference, then it was appropriate to express the second Implementation Date for P207 as being two months after an Authority decision. The Panel therefore agreed that the proposed Implementation Dates included within the draft Report should be:

- 23 August 2007 if an Authority decision is received on or before 21 June 2007; or
- The first Working Day which is 2 calendar months after an Authority decision if it is received after 21 June 2007.

The corresponding effective dates would be an effective date of 1 November 2008 if the Modification was implemented on the 23 August 2007 or the appropriate scheduled release as determined by the Panel and approximately fourteen months after the Implementation Date if the Modification was approved after the 21 June 2007.

5.1.4 Legal Text

The Panel reviewed the draft text and agreed that it addresses the defect identified by the Modification Proposal.

5.2 Results of Report Phase Consultation

11 responses (representing 48 Parties and 6 non-Parties) were received to the P207 Report Phase consultation.

A summary of the consultation responses is provided in the table below (bracketed numbers represent the number of Parties and non-Parties represented by respondents).

Q	Consultation question	Yes	No	Neutral
1.	Do you agree with the Panel's provisional recommendation to the Authority contained in the draft Modification Report that the Proposed Modification should be made?	6 (29,4)	5 (19,2)	
2.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P207?	8 (38,5)	3 (10,1)	
3.	Do you agree with the Panel's view that the legal text provided in the draft Modification Report delivers the solution agreed by the Modification Group?	8 (38,5)	2 (10,0)	1 (0,1)

5.2.1 Applicable BSC Objectives

A slight majority of respondents felt that the Proposed Modification better facilitates the applicable BSC Objectives. A minority of respondents felt that the Proposed Modification does not better facilitate the applicable BSC Objectives. The Report Phase consultation responses contained no new arguments against the applicable BSC Objectives in addition to those previously expressed during the Assessment Procedure. However, a number of other points were raised which are discussed below.

5.2.2 Implementation Date

A majority of respondents agreed with the proposed Implementation Date for P207. A minority of respondents disagreed with the Proposed Implementation Date. One respondent disagreed with the date on the basis that they did not feel that the Modification better facilitates the applicable BSC Objectives. Another respondent felt that it was unlikely that there would be enough time for the relevant documents to be drafted for the proposed Implementation Date. The proposed Implementation Date allows enough time for BSCCo to carry out all the activities required of it as BSCP40 'Change Management' allows the proposed changes to Code Subsidiary Documents to be made in advance of the Authority decision where necessary.

ELEXON has noted that, should the Modification be approved on the 22 June 2007, as suggested in the draft Modification Report sent for consultation, this would mean that the Implementation would be the first Working Day, two months after the Authority decision, i.e. 22 August 2007. This is prior to the Implementation of P197. ELEXON therefore suggested that the cut off date for the 23 August Implementation Date was amended to the 22 June 2007. The proposed Implementation Dates remain unaffected and are:

- 23 August 2007 if an Authority decision is received on or before 22 June 2007; or
- The first Working Day which is 2 calendar months after an Authority decision if it is received after 22 June 2007.

This will not affect the Effective Dates for P207.

5.2.3 Draft Legal Text

A majority of respondents agreed with the draft legal text. The following comments were received and incorporated:

- Section B 3.1.2(l) – '**preparing, considering, recommending...and approving** documents...and **hearing** and **determining** any...' (as opposed to 'prepare, consider, recommend... and approve documents... and hear and determine any...');
- Section L 7.3.4 – remove 'if' after 'provided that unless';
- Section L 7.5.1 – amend to read 'The TAA shall determine in respect of those matters or things (including **those associated with or connected to** Metering Systems) which it has been requested...';
- Section L 7.5.2 – replace the wording before the sub-paragraphs with '**Where a non-compliance has been determined in accordance with paragraph 7.5.1 the Registrant shall:**' (as opposed to 'Where a Metering Systems or a provision which the TAA has been requested to inspect has been determined to be non-compliant the Registrant shall');
- Section L 7.5.3 – should read 'Following the rectification of a **non-compliance (as determined in accordance with paragraph 7.5.1) Metering System** which is materially non-compliant, BSCCo shall...';
- Section L 7.5.4 – should read 'For the purposes of paragraph 7.5.3, a **non-compliance (as determined in accordance with paragraph 7.5.1) Metering System** is "materially non-compliant" if the TAA...';
- Section L 7.5.5 – should read 'The Registrant of a Metering System determined by the TAA to be non-compliant (**or of a Metering System in respect of which a matter or thing has been determined to be non-compliant in accordance with paragraph 7.5.1**) following an inspection...';
- Section L 7.6.2 – should read 'Where a **non-compliance has been Metering System is determined in accordance with paragraph 7.5.1** by an inspection to be non-compliant, the TAA shall...';

- Section Z 2.1.2 (f) – ‘**and** Section B4.5...’;
- Section 6.2.3 (d) – ‘to the extent **to** which it accepts the Risk Management Plan Query, make the appropriate revision to the Risk Management Plan.’;
- Section 6.4.2 – ‘...in the more recent of:’. Sub-paragraphs (a) and (b) should begin with the word ‘the’;
- Some of the semicolons used in Section Z could be changed to commas, e.g. in 6.3.6 (d), at the end of 5.4.3 (c) and 5.7.4 (b);
- Section Z 2.3.2 (b) – if a large number of queries are raised is there a possibility that PAB cannot become quorate under this section (due to the PAB members being unable to vote and discuss on the Risk Management Plans that pertain to their employer) and, if so, what should happen. The draft legal text has been amended to say that a PAB member is not able to participate only in the ‘part of the meeting’ where their company is involved. This means that the PAB can always be quorate when considering each Query, even where a number of Queries are heard in the same meeting. This will also be reflected in the PAB Terms of Reference;
- Why not remove Section J 3.1.4 altogether? Section J 3.1.4 had the words ‘Not Used’ in it; however it had no paragraphs after it. Section J3.1.4 has therefore been deleted. Sections J1.4 and Annex J-1 have also been deleted for the same reason; and
- There seem to be variations in the fonts used in the draft legal text provided. This has been amended.

These changes are all felt to be minor and provide clarification to the draft legal text.

A number of other comments were received, but no changes have been made to the draft legal text for the reasons given below:

- Section Z 2.1.2 (i) – there is no mention of Appeals in this section and this needs to be added. This section relates to proceedings of the PAB. The Panel is responsible for hearing Appeals, not the PAB. Therefore it is felt that there is no need to mention Appeals here;
- Section Z 3.2.1 – should reference be to section B3.3 in entirety and not just B3.3.9? This clause was moved from 5.3 of Annex B-1 without any changes. Therefore it is felt that this should continue to refer just to B3.3.9;
- Section Z 5.5.3 – suggests that all ad-hoc proposals will lead to a need to revise the Risk Evaluation Register. If a revision is not required, does anything in this section mean that a new version of the register will need to be produced, even though there is no change? If not, how are revisions of this register to be maintained against all proposals for changes? If a risk was suggested that the PAB did not feel was significant enough to be a Settlement Risk, then no change would be required to the Risk Evaluation Register. If however the PAB agreed a new Settlement Risk, then a revised Risk Evaluation Register would be presented to the Panel. It is envisaged that any new version of the Risk Evaluation Register that is presented to the Panel would have a new version number. However, if the PAB considered a risk but agreed not to add it to the Risk Evaluation Register, this would not be a change to the Risk Evaluation Register and so it would not have a new version number. It is felt that this level of detail relating to version numbers is not required in the Code, however may form part of any guidance that is produced by the PAB; and
- Section Z 5.1.1 - this definition of Settlement Risk is such that it is effectively no different from compliance with requirements in the Code i.e. the modification will not deliver the flexibility of a risk based approach as originally envisaged and the arrangements will continue to be stuck in compliance mode. This definition was widely discussed with members of the Modification Group as part of the assessment of P207. The majority of the Modification Group and the consultation respondents confirmed that they agreed that the draft legal text reflects the proposed solution. Therefore no changes have been made to this definition.

5.2.4 Other Comments

One respondent stated that they felt that P207 constituted a formalisation of practice that already exists to a significant extent, in terms of prioritisation of issues. The respondent felt that the main benefits of P207 are the introduction of the SVA Objectives and a more transparent process in relation to the prioritisation of issues. The respondent felt that P207 would lead to an improved understanding of PAB's role and the issues concerned.

One respondent stated that they supported the development of robust industry governance arrangements in the context of Ofgem's Industry Codes Compliance Review.

Two respondents (who are both Party Agents) continue to have serious concerns over the Appeals process for Party Agents. These respondents felt that the solution in this area developed by the Group (i.e. that Party Agents must Appeal their Risk Management Plans through an associated Supplier) could prove to be problematic for independent Party Agents, if they could not find an associated Supplier willing to take forward their Appeal in the appropriate timescales. These respondents felt that Party Agents should be able to have an independent right of appeal. This issue was discussed by the Modification Group as part of the Assessment of P207. The Modification Group were of the view that only Parties should be able to appeal Risk Management Plans, and Party Agents would have to appeal their Risk Management Plans through an associated Supplier as this is in line with the Supplier hub principle.

Another respondent noted the concerns of the Panel and the Authority around the Appeals process. The respondent felt that an opportunity had been missed to incorporate a more comprehensive Appeal process, enabling an independent review of decisions within the wider performance assurance process, avoiding the need to raise a separate Modification in this area.

One respondent felt that, if the risk based approach relies on feedback from the BSC Audit, which is in turn dictated by the latest risk, then it will deliver diminishing returns and potentially miss new or growing risks. It should however be noted that the BSC Audit is only one way that risks can be identified and fed into the risk evaluation process.

One respondent felt that since there were no new performance assurance techniques being applied, P207 would deliver the same performance assurance regime as now, but under a slightly different and more onerous process.

P207 seeks to change the role of the BSC Auditor on the PAB from a permanent, non-voting member to a non-voting invitee. One respondent had a concern about this. The respondent felt that important knowledge and understanding would be lost if the BSC Auditor was not invited to a PAB meeting. The Modification Group discussed this point as part of the Assessment of P207 and believed that the BSC Auditor should only be invited to meetings of the PAB as required as the industry should not have to pay the cost of the BSC Auditor attending PAB meetings where their presence is not required.

Another respondent felt that more time will be spent by Parties analysing Risk Management Plans than tackling the root causes of the issues.

One respondent felt that the solution for Proposed Modification P207 had moved so far away from that originally discussed under the PAF review that they felt that it was not fit for purpose. The respondent particularly felt that this was mainly due to moving away from a body responsible for risk evaluation being formed of Suppliers who could discuss the areas that are causing disproportionate risk amongst them. The respondent felt that proposed process is now very prescriptive with little flexibility or incentive to cut down on the amount of compliance based work. Another respondent commented that P207 does not deliver the intention of the PAF review.

One respondent stated that they felt that one of the objectives of P207 was to help the industry focus on more material risks whilst reducing the resource intensive but low value activity carried out by Parties and Party Agents. The respondent felt that the report does not demonstrate how these objectives will be

achieved and felt that the benefits are not clearly defined. P207 seeks to introduce the governance arrangements for the risk based approach to performance assurance; however it leaves the detail of producing the methodology for the evaluation to the PAB.

One respondent noted that there is a lot of work to be carried out under the new process and questioned whether BSCCo and the PAB would be able to cope with this increased workload. The implementation costs include costs for BSCCo resource to carry out the work associated with producing the methodology, Risk Evaluation Register, Operating Plan, Risk Management Plans and Annual Report. The Modification Group also produced an indicative timeline which shows how the work could be managed.

One respondent felt that previous consultation responses have expressed concern at the complexity, bureaucracy and costs for Parties and Party Agents around the production and support of Risk Management Plans. The respondent felt that although these concerns were mentioned at the Panel meeting, there was little discussion about the points that had been raised.

One respondent commented that the full costs had only been presented to the Modification Group at their last meeting. The respondent therefore felt that these costs had not been subject to adequate scrutiny and debate by the Group. It should be noted that it was only possible to carry out an Impact Assessment and determine these final costs once the solution for P207 had been fully defined, and thus it had not been possible to determine them earlier in the process.

One respondent felt concerned that a meaningful cost benefit analysis had not been carried out. The respondent felt that the benefits that could be expected from this Modification had been addressed in terms of possible rather than actual benefits. As part of the Assessment of P207, an Impact Assessment was carried out; however the majority of Parties and Party Agents that responded to this Impact Assessment stated that it is not possible to determine the costs associated with P207 before seeing what is on their Risk Management Plan. BSCCo has provided the costs of implementing P207 and producing the documents associated with the new regime, but like Parties and Party Agents, BSCCo has not been able to determine the actual costs of carrying out the techniques as BSCCo does not know at the moment to what extent each technique will be applied under P207 (as this will be based on the Operating Plan).

One respondent commented on the estimated cost savings of £1 million per annum for the BSC Audit. It should be noted that this figure was highlighted in the report as an example of a cost saving. This particular example was included as it had been identified as part of the BSC Audit review, if the scope of the BSC review could be amended (which it could under P207). This cost saving relates to only auditing the central arrangements. Under P207, the scope of the BSC Audit would be determined by the Operating Plan and Risk Management Plans and may not lead to this extent of saving. The respondent suggested that this cost saving could be removed from the ELEXON budget and a report produced on an annual basis by the PAB detailing the costs of performing this assurance activity. The respondent stated that this assurance activity should be subject to public challenge. Under the current arrangements it would not be possible to make this saving as the Code is explicit on the areas that need to fall under the BSC Audit. Under P207 the extent and therefore the cost of the BSC Audit would be determined by the Operating Plan and Risk Management Plans, and therefore it would not necessarily be possible to completely remove this cost from the ELEXON budget.

A number of respondents noted and agreed with the Panel's comments around the use of consultants during the implementation of P207, should P207 be approved. One respondent suggested that Parties subject to performance assurance should expect to be supported by their BSCCo Operational Support Manager. The respondent also suggested that the level of education required for a present or future member of the PAB should be minimal. The cost of using a consultant continues to be highlighted as an implementation cost for P207; however BSCCo has noted the views of the Industry and the Panel regarding the use of consultants as part of the Implementation of P207.

One respondent recommended to the Panel that the success of P207 should be reviewed six months after Implementation. A review could be designed to ensure that the PAB has transitioned to the new arrangements successfully or whether some follow up is required. The respondent felt that it is good

practice to review fundamental changes such as P207 post-implementation to measure that what was intended to occur did actually occur. A similar comment was made as part of the second Assessment Procedure consultation and the Modification Group noted this point. The Modification Group also noted that, should a post implementation review highlight that any subsequent changes were required, that these would have to be progressed in line with BSC change procedures. The Modification Group noted that under P207, the PAB can recommend a Modification Proposal to the Panel and this mechanism could be used to recommend changes from the outcome of any post implementation review.

A late consultation response was received from Centrica. Their views have been reflected in the table in 5.2, but there has not been time to include their comments in this section. Centrica have made a number of comments under question 1 and question 4 of their response and the Panel should refer to this response for the details.

5.3 Panel's Consideration of Draft Modification Report

5.3.1 Report Phase Consultation Responses

The Panel discussed the consultation response relating to a review of the success of P207 six months after implementation. The Panel noted that, on an annual basis, the PAB would produce a report to the Panel detailing the extent to which assurance had been provided to mitigate against the risks in the Risk Evaluation Register, the costs of providing this assurance, related to the costs envisaged at the start of the year, whether there are any cost savings to be made and the benefits of making changes. One Panel Member noted that any reviews should be split into two areas. The Panel Member felt that there would be benefit in the PAB undertaking a lesson's learnt process after the production of the first Risk Methodology and Risk Evaluation Register. The Panel Member felt that, after a period of time has passed, there would be further benefit for the PAB to undertake a lesson's learnt on the risk based approach to assurance.

One Panel Member questioned whether, if a Risk Management Plan was appealed, would it be the whole of the plan that was appealed or part of the plan. If a Risk Management Plan was queried or appealed, the relevant part of the Risk Management Plan would be queried / appealed as opposed to the whole Risk Management Plan.

One Panel Member noted that P207 is based on a process used by the Financial Services Authority (FSA). The Panel noted that under the PAF Review, the Core Working group looked at a number of models. The model proposed under P207 picks up some of the FSA model and combines it with an approach that is manageable under the BSC. It does not pick up the entire FSA model and place it in the BSC.

One Panel Member commented that P207 represents a shift in attitude as the process involves discussion between participants and the PAB and BSCCo, but also requires the PAB and the Panel to uphold the rules contained in the BSC. The Panel noted that this would have to be carefully managed and overseen by the Panel, especially in the case of Appeals.

One Panel Member questioned how the Operating Plan would be produced prior to being presented to the Panel. This would be written by the PAB with support from BSCCo. It would then be placed on the BSCCo website and participants would be invited to comment on it. The Operating Plan and comments would then be presented to the Panel for the Panel to agree the Operating Plan and the Panel may agree any changes that should be made as a result of the comments. The Panel Member note that the implementation of P207 allows for education for the PAB in the new process and requested that this education was also provided to the Panel.

One Panel Member noted that the only costs that are determinable for P207 at this stage are the implementation costs (as set out in section 3.2). The Panel Member noted that participants and BSCCo will not be in a position to evaluate the costs of providing and supporting the performance assurance techniques until the first cycle of risk assessment has been carried out. The Panel Member felt that this does not mean that P207 cannot be approved.

One Panel Member noted a consultation response stating that the implementation costs of P207 could be passed onto consumers. The Panel felt that if a participant has a non-compliance that is highlighted by a performance assurance technique, this means that the participant is not operating as it should be in accordance with the Code. The Panel Member felt that the consumer is not responsible for this and so costs should not be passed onto the Customer.

One Panel Member noted comments relating to the process being bureaucratic. The Panel Member felt that, if, by having consultations as part of the process early on, this can resolve issues and disagreements at an early stage, then the process is helpful as opposed to bureaucratic.

One Panel Member noted a consultation response relating to P207 not delivering the results of the PAF Review. The Panel Member noted that section 4.5 of the PAF review report stated that the Risk Evaluation Group and the Risk Assurance Board could be separate Panel Committees but these roles could also be undertaken by the same Panel Committee. Therefore the Panel Member felt that in terms of the Panel Committee roles, P207 had delivered the results of the PAF Review.

One Panel Member noted that if, over time, it appeared that a small number of participants were subject to much more performance assurance than others, the industry may want to consider how central costs are allocated. The Panel Member felt that this could be determined following a review of the process. The Panel noted that this would be something for the industry to consider in the future, if appropriate.

5.3.2 Applicable BSC Objectives

The Panel unanimously agreed that P207 better facilitates Applicable BSC Objectives (c) and (d) for the reasons set out in section 5.1.2. The two energywatch Panel Members abstained from voting since P207 was raised by energywatch.

5.3.3 Implementation Date

The Panel agreed to change to the first cut off date for P207 from the 21 June 2007 to the 22 June 2007. The Panel noted that the phrase 'first Working Day which is 2 calendar months after an Authority decision' means that, if the Modification was approved on the 30 June (for example), the Implementation Date would be the 30 August (and not the 29 August).

5.3.4 Legal Text

The Panel agreed the changes to the P207 draft legal text set out in section 5.2.3. The Panel also agreed the following changes to the draft legal text:

- Section Z5.1 – change to the title 'Settlement Risks, Performance Assurance Parties, **SVA Performance Assurance Objectives**, and Annual Performance Assurance Timetable. It was felt that this change would ensure that the SVA Performance Assurance Objectives are more prominent;
- Section Z5.7.3 – addition of missing ')' after the words 'material business units';
- Annex X-1 – the following change 'Insert news definition of Performance Assurance Effective Date' (delete the 's' in 'news'); and
- Annex K-1, 3.1.1 – amend BSCP531 to BSCP537. The Panel noted that Approved Modification P209 'Housekeeping Modification – Change of Code References from BSCP531 to BSCP537' had amended other occurrences of BSCP531 to BSCP537, however this instance was missed under P209. The Panel agreed that this change is in scope of the Modification since P207 looks at the performance assurance techniques.

The Panel noted the comments made by consultation respondents set out in section 5.2.3 that had not resulted in a change to the draft legal text and agreed that no changes to the draft legal text were required as a result of these comments.

5.4 Panel's Final Recommendation to the Authority

On the basis of the above discussions, the Panel therefore agreed a **UNANIMOUS** recommendation to the Authority that the Proposed Modification **SHOULD** be made.

The Panel agreed the following recommended implementation approach for P207:

- An Implementation Date for the Proposed Modification of:
 - 23 August 2007 if an Authority decision is received on or before 22 June 2007; or
 - The first Working Day which is 2 calendar months after an Authority decision if it is received after 22 June 2007.

The Panel agreed the legal text for modifying the Code in respect of the Proposed Modification, as provided in Appendix 1.

6 TERMS USED IN THIS DOCUMENT

Other acronyms and defined terms take the meanings defined in Section X of the Code.

Acronym/Term	Definition
BMRA	Balancing Mechanism Reporting Agent
BSC	Balancing and Settlement Code
BSCCo	Balancing and Settlement Code Company
BSCP	Balancing and Settlement Code Procedure
CDCA	Central Data Collection Agent
CoA	Change of agent
CP	Change Proposal
CRA	Central Registration Agent
CSD	Code Subsidiary Document
CVA	Central Volume Allocation
ECVAA	Energy Contract Volume Aggregation Agent
FAA	Funds Administration Agent
FSA	Financial Services Authority
GSP	Grid Supply Point
HH	Half Hourly
IWA	Initial Written Assessment
KPI	Key Performance Indicator
NHH	Non-Half Hourly
OP	Operating Plan
PAB	Performance Assurance Board
PAF	Performance Assurance Framework

RAB	Risk Assurance Board
REG	Risk Evaluation Group
RER	Risk Evaluation Register
RMP	Risk Management Plan
SAA	Settlement Administration Agent
SMRA	Supplier Meter Registration Agent
SVA	Supplier Volume Allocation
SVAA	Supplier Volume Allocation Agent
SVAO	Supplier Volume Allocation Agent Operations
TAA	Technical Assurance Agent
TDC	Trading Disputes Committee
VASMG	Volume Allocation Standing Modification Group

7 DOCUMENT CONTROL

7.1 Authorities

Version	Date	Author	Reviewer	Reason for Review
0.1	12/4/07	Katie Wilkinson	David Jones Nigel Cornwall John Sykes	For technical review
0.2	17/04/07	Katie Wilkinson	BSC Parties and other interested parties	For consultation
0.3	01/05/07	Katie Wilkinson	David Jones	For technical review
0.4	03/05/07	Katie Wilkinson	Colin Berry	For quality review
0.5	04/05/07	Change Delivery	BSC Panel	For Panel decision
0.6	10/05/07	Katie Wilkinson	David Jones	For quality review
1.0	11/05/07	BSC Panel		For Authority decision

7.2 References

Ref.	Document Title	Owner	Issue Date	Version
Reference_1	Findings of the PAF Review v1.0	ELEXON	07/08/06	1.0
Reference_2	Appendices to the Findings of the PAF Review v1.0	ELEXON	07/08/06	1.0
Reference_3	Review of the BSC Audit Terms of Reference http://www.elexon.co.uk/documents/Consultations/Review_of_the_BSC_Audit_Terms_of_Reference/BSC_Audit_Review_Consultation_Document_5_May_2005.pdf	ELEXON	April 2005	1.0

APPENDIX 1: LEGAL TEXT

Draft legal text for the Proposed Modification is attached as a separate document, Attachment 1.

APPENDIX 2: PROCESS FOLLOWED

Copies of all documents referred to in the table below can be found on the BSC Website at: [ELEXON - Modification Proposal P207](#).

Date	Event
29/09/06	Modification Proposal raised by energywatch
12/10/06	IWA presented to the Panel
16/10/06	First Assessment Procedure Modification Group meeting held
2/11/06	Second Assessment Procedure Modification Group meeting held
15/11/06	Third Assessment Procedure Modification Group meeting held
24/11/06	Initial Assessment Procedure Consultation issued
08/12/06	Initial Assessment Procedure Consultation responses returned
12/12/06	Forth Assessment Procedure Modification Group meeting held
11/01/07	Interim Report presented to the Panel. Panel Request Authority provisional thinking
12/01/07	Provisional thinking requested from the Authority
09/01/07	Fifth Assessment Procedure Modification Group meeting held
29/01/07	Sixth Assessment Procedure Modification Group meeting held
30/01/07	Provisional thinking received from the Authority
08/02/07	Authority Provisional thinking presented to the Panel. Panel directs Modification Group
12/02/07	Seventh Assessment Procedure Modification Group meeting held
23/02/07	Second Assessment Procedure consultation issued
23/02/07	Request for Party/Party Agent impact assessments request issued
23/02/07	Request for Transmission Company analysis issued
23/02/07	Request for BSCCo impact assessment issued
9/03/07	Second Assessment Procedure consultation responses returned
9/03/07	Party/Party Agent impact assessment responses returned
9/03/07	Transmission Company analysis returned
9/03/07	BSCCo impact assessment returned
15/03/07	Eighth Assessment Procedure Modification Group meeting held
12/04/07	Assessment Report presented to the Panel
17/04/07	Draft Modification Report issued for industry consultation

Date	Event
01/05/07	Report Phase consultation responses returned
10/05/07	Draft Modification Report presented to the Panel
11/05/07	Final Modification Report issued to the Authority for decision

ESTIMATED COSTS OF PROGRESSING MODIFICATION PROPOSAL¹⁹

Meeting Cost	£4,000
Legal/Expert Cost	£10,000
Impact Assessment Cost	£5,000
BSCCo Resource	125 man days £38,700

The costs have changed to those quoted in the Initial Written Assessment due to the extra analysis and initial consultation required surrounding P207 and the five extra P207 Modification Group meetings for P207. The legal cost has increased as BSCCo has had to subcontract the drafting of the P207 legal text due to resource constraints.

APPENDIX 3: ASSESSMENT REPORT

The P207 Assessment Report is attached as a separate document, Attachment 2.

For the purposes of the Report Phase consultation and the Panel's consideration of the draft Modification Report, the P207 Assessment Report can be found on the BSC Website at: [ELEXON - Modification Proposal P207](#).

The Assessment Report includes:

- The conclusions of the Modification Group regarding the areas set out in the P207 Terms of Reference;
- Details of the Group's membership;
- The full results of the Assessment Procedure impact assessment; and
- Full copies of all responses to the Assessment Procedure consultation.

APPENDIX 4: REPORT PHASE CONSULTATION RESPONSES

Full copies of the consultation responses are attached as a separate document, Attachment 3.

¹⁹ Clarification of the meanings of the cost terms in this appendix can be found on the BSC Website at the following link: http://www.elexon.co.uk/documents/Change_and_Implementation/Modifications_Process_-_Related_Documents/Clarification_of_Costs_in_Modification_Procedure_Reports.pdf

APPENDIX 5: EXAMPLE OF THE NEW RISK BASED PERFORMANCE ASSURANCE PROCESS

This appendix seeks to describe, by way of a simplified example, the way that the new process could operate in practise.

This scenario assumes that P207 has been in place for one year. The PAB have had approved their initial methodology, Risk Evaluation Register and Operating Plans. The PAB has produced Risk Management Plans for all participants and has applied them for one year.

The following performance assurance techniques are available for use by the PAB (where these are not available at the moment, Modifications would have been raised approved and implemented to introduce the new techniques):

- Qualification (and Re-Qualification);
- Key Performance Indicators;
- Risk Based Audit;
- Targeted Audit;
- Escalation to Committee (initially to the PAB, with provision to escalate to the Panel);
- Naming to Peers / Public / Ofgem;
- Notification to Associated Suppliers; and
- Development and Progression of Rectification Plans.

The following participants act in the SVA market:

- Suppliers:
 - Watt Energy
 - Ample Savings
 - Business Joule
 - Ohm Energy
- Supplier Agents:
 - Metering Hertz
 - Tesla Services

The process would be as follows (the timeline of events used in this example has been set out for indicative purposes only):

- **1st June 2008** – the BSC Auditor publishes its report following a risk-based audit. There are 3 issues in the Opinion, 3 in the Statement of Significant Matters (SSMs) and 300 other issues.

Issue Status	Issue Description	Issue Relates To...
BSC Audit Opinion	Energisation Status Mismatches	Industry-wide Issue
BSC Audit Opinion	Significant backlog of failed business processes following agent migration	Supplier Watt Energy
BSC Audit Opinion	Line loss factors not being applied correctly	HHDA Metering Hertz
BSC Audit SSM	Incorrect application of Gross Volume Correction	NHHDC Metering Hertz

Issue Status	Issue Description	Issue Relates To...
BSC Audit SSM	Inadequate management of material NHH exceptions	Supplier Watt Energy
BSC Audit SSM	Excessive backlog of unprocessed "no access" reports	NHHDC Metering Hertz

- **1st July 2008** – the PAB publishes its Annual Report drawing on information in the BSC Audit Report, the progress in addressing issues throughout the year, the effectiveness of the tool sets used etc.
- **14th July 2008** – the Panel approves the PAB's Annual Report.
- **1st August 2008** - the PAB establishes the matters it wishes to include in the Risk Evaluation Register and consult upon, regarding risks to the SVA Assurance Objectives.
- **14th August 2008** – the PAB issues its consultation.
- **14th September 2008** – the PAB considers the results from the consultation.
- **30th September 2008** – the PAB submits its Risk Evaluation Register to the Panel for approval. In summary it concludes that the 3 Opinion Issues and 2 of the 3 SSM issues are material risks to the SVA Assurance Objectives that need managing (the SSM regarding unprocessed "no access" report not being considered a significant risk to the SVA Assurance Objectives). The PAB also identifies a further area that may constitute material risk to the SVA Assurance Objectives.
- **14th October 2008** – the Panel approves the Risk Evaluation Register. The published Risk Evaluation Register records the following significant risks:

Risk Area	Current Status
Energisation Status Mismatches	BSC Audit Opinion
Significant backlog of failed business processes following agent migration	BSC Audit Opinion
Line loss factors not being applied correctly	BSC Audit Opinion
Incorrect application of Gross Volume Correction	BSC Audit SSM
Inadequate management of material NHH exceptions	BSC Audit SSM
New Risk - Application of Estimating Processes	Unknown

- **1st November 2008** – the PAB considers the Risk Evaluation Register and produces its Operating Plan. It is estimated that this will require 10% less budget than the previous year as the risks to the SVA Assurance Objectives have reduced. A requirement for a new Key Performance Indicator (KPI) to monitor energisation status mismatches is identified.
- **14th November 2008** – the Panel Approves the PAB's Operating Plan. The published Operating Plan records the following:

Risk Area	Current Status	Applies to...	Actions and Applicable Assurance Techniques Noted in the Operating Plan
Energisation Status Mismatches	BSC Audit Opinion	Industry-wide	<ul style="list-style-type: none"> • Include in Scope of BSC Audit for all participants. • Gather and monitor individual participant rectification plans. • Escalation to Committee if rectification plans not progressed. • Recommend to the Panel to raise a Modification for the introduction of a basic KPI (could be provided to support industry self-monitoring).

Risk Area	Current Status	Applies to...	Actions and Applicable Assurance Techniques Noted in the Operating Plan
Significant backlog of failed business processes following agent migration	BSC Audit Opinion	One Supplier	<ul style="list-style-type: none"> • Include in Scope of BSC Audit for all participants. • Gather and monitor individual participant rectification plans. • Deploy Targeted Audit on particular Supplier part-way through year. • Escalation to Committee if rectification plans not progressed. • Naming to peers if Escalation to Committee is required.
Line loss factors not being applied correctly	BSC Audit Opinion	One HHDA	<ul style="list-style-type: none"> • Include in Scope of BSC Audit for all participants. • Notification to Associated Suppliers. • Gather and monitor individual participant rectification plans. • Deploy Targeted Audit on particular HHDA part-way through year. • Escalation to Committee if rectification plans not progressed. • Naming to peers if Escalation to Committee is required. • Require Re-Qualification if rectification plans not progressed.
Incorrect application of Gross Volume Correction	BSC Audit SSM	One NHHDC	<ul style="list-style-type: none"> • Include in Scope of BSC Audit for all participants. • Notification to Associated Suppliers. • Gather and monitor individual participant rectification plans. • Deploy Targeted Audit on particular NHHDC part-way through year. • Escalation to Committee if rectification plans not progressed. • Naming to peers if Escalation to Committee is required. • Require Re-Qualification if rectification plans not progressed.
Inadequate management of material NHH exceptions	BSC Audit SSM	One Supplier	<ul style="list-style-type: none"> • Include in Scope of BSC Audit for all participants. • Gather and monitor individual participant rectification plans. • Escalation to Committee if rectification plans not progressed. • Naming to peers if Escalation to Committee is required. • Deploy existing KPI to monitor broader risk.
Application of Estimating Processes	Unknown	Unknown	<ul style="list-style-type: none"> • Include in Scope of BSC Audit for all participants.

- **December 2008 to January 2009** – the PAB makes sure the appropriate set of Risk Mitigation Plans (RMPs) is in place that utilise appropriate assurance techniques. Information received from participants during this process reveals the following:
 - Suppliers indicate that they plan to progress the energisation status mismatch issue collectively as part of a self-managed industry initiative.
 - A letter is received from a Watt Energy Director advising that the issue relating to significant backlogs of failed business processes has already been resolved.
- The PAB therefore establishes the following risk mitigation plans:
 - **Common Techniques - Applied to all Suppliers (Watt Energy, Ample Savings, Business Joule, Ohm Energy)**

Assurance Technique	Scope
Key Performance Indicators	Inadequate management of material NHH exceptions
Risk-based Audit	Energisation Status Mismatches. Backlogs of failed business processes following agent migration. Application of Line loss factors. Application of Gross Volume Correction. Management of material NHH exceptions. Application of Estimating Processes.
Development and Progression of Rectification Plans	Energisation Status Mismatches (Taking account of feedback from the Supplier Group that has been established to progress this issue as part of a self managed industry initiative.) Management of material NHH exceptions (where an issue is identified by the KPI – see above).
Escalation to Committee ²⁰	Energisation Status Mismatches.

o **Further Techniques - Applied to Watt Energy Only**

Assurance Technique	Scope
Targeted Audit	Backlogs of failed business processes following agent migration.
Development and Progression of Rectification Plans	Backlogs of failed business processes following agent migration. <i>(Only in the event that the targeted audit is unable to confirm that this issue has been resolved).</i> Management of material NHH exceptions.
Escalation to Committee ²⁰	Backlogs of failed business processes following agent migration. Management of material NHH exceptions.
Naming to Peers / Public / Ofgem ²⁰	Backlogs of failed business processes following agent migration. Management of material NHH exceptions.

o **Common Techniques - Applied to all Applicable Agent Roles (Metering Hertz, Tesla Services)**

Assurance Technique	Scope
Risk-based Audit	Energisation Status Mismatches. Backlogs of failed business processes following agent migration. Application of Line loss factors. Application of Gross Volume Correction. Management of material NHH exceptions. Application of Estimating Processes.
Development and Progression of Rectification Plans	Energisation Status Mismatches.
Escalation to Committee ²⁰	Energisation Status Mismatches.

²⁰ These techniques will not be applied at this stage but may be employed should feedback from other techniques identify a need for their use.

○ **Further Techniques - Applied to Metering Hertz Only**

Assurance Technique	Scope
Targeted Audit	Application of Line loss factors. Application of Gross Volume Correction.
Development and Progression of Rectification Plans	Application of Line loss factors. Application of Gross Volume Correction.
Notification to Associated Suppliers	Application of Line loss factors. Application of Gross Volume Correction.
Escalation to Committee ²⁰	Application of Line loss factors. Application of Gross Volume Correction.
Naming to Peers / Public / Ofgem ²⁰	Application of Line loss factors. Application of Gross Volume Correction.
Re-Qualification ²⁰	Application of Line loss factors. Application of Gross Volume Correction.

- **1 February 2009 – 31 March 2009** – Monitoring conducted against Rectification Plans. Progress is as follows:

Risk Area	Assurance Techniques Already Used	Progress / Action in this and future periods
Energisation Status Mismatches.	Development and Progression of Rectification Plans. PAB asks for regular progress reports from the Supplier self-managed industry initiative.	Considerable progress for all but one large Supplier (Business Joule). Escalation to Committee (PAB) deployed for Business Joule . Authority agreement to new KPI following progression of modification and implementation to be taken forward.
Backlogs of failed business processes following agent migration.	Letter received from Watt Energy Director advising that this issue has already been resolved. Targeted Audit (day visit) commissioned to confirm.	Issue resolved.

Risk Area	Assurance Techniques Already Used	Progress / Action in this and future periods
Application of Line loss factors not being applied correctly.	<p>Development and Progression of Rectification Plans for Metering Hertz.</p> <p>Notification to associated Suppliers of Metering Hertz of the issue status.</p>	<p>No rectification plans provided.</p> <p>Name Metering Hertz as being under further investigation following failure to provide rectification plan.</p> <p>Escalation to Committee (PAB) deployed for Metering Hertz.</p> <p>Targeted Audit deployed. This confirms the problem is only occurring for one of the agent's associated Suppliers (Business Joule).</p> <p>Notify associated Suppliers of Metering Hertz of the results of the Targeted Audit, noting implications for failure to address the issue.</p> <p>Update Risk Mitigation Plans for Business Joule, noting that, as the Supplier responsible, Escalation to committee may be employed if the Supplier does not resolve the matter with its Agent.</p>
Application of Gross Volume Correction.	<p>Development and Progression of Rectification Plans for Metering Hertz.</p> <p>Notification to associated Suppliers of Metering Hertz of the issue status.</p>	<p>Progress made in accordance with plans.</p> <p>Notification to associated Suppliers of Metering Hertz of the progress made.</p>
Management of material NHH exceptions.	<p>Development and Progression of Rectification Plans for Watt Energy.</p> <p>Existing KPI deployed across Suppliers as this is viewed as a broader risk.</p>	<p>Progress in accordance with plan for Supplier Watt Energy.</p> <p>KPI Monitoring reveals similar issue at Ample Savings and Ohm Energy. Development and Progression of Rectification Plans deployed for these Suppliers.</p>
Application of Estimating Processes.	None	<p>This will be the subject of the BSC Audit.</p> <p>Fieldwork due to take place at all participants during March and April.</p>

- **1 April 2009 – 31 May 2009** - Monitoring conducted against Rectification Plans. Progress is as follows:

Risk Area	Assurance Techniques Already Used	Progress / Action in this and future periods
Energisation Status Mismatches.	Development and Progression of Rectification Plans. PAB asks for regular progress reports from the Supplier self-managed industry initiative. Escalation to Committee (PAB) deployed for Business Joule .	Considerable progress for all Suppliers. New KPI implemented.
Backlogs of failed business processes following agent migration.	Issue already resolved – confirmed in last period by a Targeted Audit.	N/A.
Application of Line loss factors not being applied correctly.	Development and Progression of Rectification Plans for Metering Hertz . Notification to associated Suppliers of Metering Hertz of the issue status. Metering Hertz named as being under further investigation following failure to provide rectification. Escalation to Committee (PAB) deployed for Metering Hertz . Targeted Audit deployed. This confirms the problem is only occurring for one of the agent's associated Suppliers (Business Joule).	Limited progress. Escalation to Committee (PAB) deployed for Supplier Business Joule .
Application of Gross Volume Correction.	Development and Progression of Rectification Plans for Metering Hertz . Notification to associated Suppliers of Metering Hertz of the issue status.	Issue resolved. Notification to associated Suppliers of Metering Hertz of the resolution of the issue.
Management of material NHH exceptions.	Development and Progression of Rectification Plans for Watt Energy . Existing KPI deployed across Suppliers as this is viewed as a broader risk. Development and Progression of Rectification Plans for Ample Savings and Ohm Energy .	Issue resolved for Supplier Watt Energy . Progress in accordance with plans for Ample Savings and Ohm Energy .
Application of Estimating Processes.	BSC Audit fieldwork takes place at all participants during March and April.	This will be included in the BSC Audit Report to be published in June 2009.

- **1st June 2009** – the BSC Auditor publishes its report following a risk-based audit. There are 2 issues in the Opinion, 2 in the Statement of Significant Matters (SSMs) and 280 other issues.

Issue Status	Issue Description	Issue Relates To...
BSC Audit Opinion	Line loss factors not being applied correctly	Supplier Business Joule (HHDA Metering Hertz)
BSC Audit Opinion	Flawed estimating processes	HHDA Tesla Services

BSC Audit SSM	Energisation Status Mismatches	Industry-wide Issue
BSC Audit SSM	Inadequate management of material NHH exceptions	Suppliers Ample Savings and Ohm Energy

APPENDIX 6: EXAMPLE OF POTENTIAL RISK MANAGEMENT PLAN EXTRACT

A risk that could be identified on the Risk Evaluation Register might be:

- "Errors in the registration and maintenance of Half Hourly (HH) Metering System data result in mismatches of energisation status for Metering Systems between participants in the HH market that impact the energy volumes submitted into Settlement".

Previous assurance work may have determined that energy is being misallocated between Suppliers as a result of mismatches in the energisation status of Metering Systems for which they are responsible.

The PAB may also identify (from previous audit work conducted) specific concerns at a number of participants related to this risk.

For example, it may be common practice that the maintenance of energisation status is largely an automated process, however, one Meter Operator Agent may have an entirely manual process for maintaining energisation status which the BSC Auditor observed as being particularly weak.

Another Meter Operator Agent may have no formal process in place for maintaining energisation status records for HH Metering Systems, automated or otherwise, which the BSC Auditor recorded as a non-compliance with the Code.

The PAB might therefore state within the Operating Plan that:

- All HH Suppliers, Meter Operator Agents (MOAs) and Data Collectors (DC) will be subject to an annual audit of the processes and controls in place for the registration and maintenance of HH Metering System energisation status;
- A targeted audit will be conducted six months through the year on Meter Operator Agents (MOAs) that have been previously identified as having weak processes and controls or no processes and controls in place for the registration and maintenance of HH Metering System energisation status;
- The Error and Failure Resolution (E&FR) process will be applied to all Suppliers in order to resolve the mismatches in HH energisation status that exist across Settlement that are leading to misallocation of energy volumes between Suppliers; and
- The E&FR process will be applied to participants that are identified as non-compliant with the Code in respect of processes and controls relating to the registration and maintenance of HH Metering System energisation status.

Consequently, an individual Risk Management Plan for a **Supplier** with **no previously identified non-compliances** and that exhibited **less risk** would show them as being subject to:

- An annual audit of the processes and controls in place for the registration and maintenance of HH Metering System energisation status;
- The E&FR process to resolve the mismatches in HH energisation status that exist across Settlement that lead to misallocation of energy volumes between Suppliers [as the Operating Plan states that all Suppliers will be subject to the E&FR process in this area to resolve the mismatches, which may not be non-compliances]; and
- The E&FR process in respect of any specific non-compliances that might be identified in this area in the future.

An individual Risk Management Plan for a **Meter Operator Agent** with **no previously identified non-compliances** and that exhibited **less risk** would show them as being subject to:

- An annual audit of the processes and controls in place for the registration and maintenance of HH Metering System energisation status;
- The E&FR process in respect of any non-compliances that might be identified in this area in the future.

An individual Risk Management Plan for a **Meter Operator Agent** with **no previously identified non-compliances** that exhibited **more risk** in this area would state that they would be subject to:

- An annual audit of the processes and controls in place for the registration and maintenance of HH Metering System energisation status;
- A targeted audit to be conducted six months through the year of the processes and controls in place for the registration and maintenance of HH Metering System energisation status; and
- The E&FR process in respect of any non-compliances that might be identified in this area in the future.

An individual Risk Management Plan for a **Meter Operator Agent** with **previously identified non-compliances** that exhibited **more risk** in this area would state that they would be subject to:

- An annual audit of the processes and controls in place for the registration and maintenance of HH Metering System energisation status;
- A targeted audit to be conducted six months through the year of the processes and controls in place for the registration and maintenance of HH Metering System energisation status; and
- The E&FR process in respect of existing non-compliances identified and any non-compliances that might be identified in this area in the future.

APPENDIX 7: PROJECT PLANS FOR THE OPERATION OF P207

The following plan shows indicative dates for the production of the various requirements relating to P207. The plan assumes Authority approval in time for the first Implementation Date. The plan for the second Implementation Date would have similar timescales.

Project Implementation Plan for based on the first proposed Implementation Date:

